

# THE COMPLETE JUSTICE.

A Syn 8. 63. 305

## COMPENDIUM

of the particulars incident to Iustices of the Peace, either in Sessions or out of Sessions :

Gathered out of the Statutes, Reports, late Resolutions of the Judges, and other approved Authorities.

Abstracted and cited Alphabetically for their ready helpe, and the ease of inferiour Officers, and for the generall good of the Kingdome.

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*Multa conceduntur per obliquum, quæ non conceduntur de directo. Coke lib. 6. 47.*

---

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Abjuration.



## Abjuration.



Justice of Peace cannot arraigne a man upon his abjuration for felony. *Lamb. 551. opinion of Murray.*

2 Abjuration of a seditious sectarie made in open Quarter Sessions, must be certified to the Judge of Assize at the next Assize. *35. Eliz. 1. Lam. 590, 615.*

*Vide plus Recusant, 204.*

*Abolve, Vide Treason. 272 & 273.*

## Accessary and Principall.

*Who shall be an accessary before the fact.*

1 Abetter, Procurer, or Consenter to a felony. *Dal. 284. & 285. Cra. 41. Lamb. 286, 287, 288. Stamf. 440.*

2 Commander of an evill act is accessary to the felony proceeding thereof: as if death proceed of beating or robbing. *Dal. 285. Cra. 43. 2. Lam. 286.*

3 Commander of one felony, whereby another enlueth, is accessary to the first: as, A commandeth B. to fire the house of C. and thereby many are fired. *Limb. 286, 287.*

4 Commander of a felony, though it be executed in another fashion, time, and place, or manner than was commanded. *Dal. 285. Lamb. 286, 287. Cra. 43. 4. 274. 14.*

*Who not*

The felony commanded is executed on another person, the commander is not accessory. *Lam. 287.*

The commanded performing more than was commanded, committeth felony, the commander is not accessory. *Lam. 287.*

The commander of one felonie to be done to a man, is not accessory to another kind of felony committed against the said party; as, one counselled to poyson A. giveth it to A. and B. the counsellor is not accessory to the murder of B. *Lamb. 287. nu. 16.*

The knower of a felony without consenting. *Lam. 288. Lamb. 289. Dal. 286. saith quere Cro. 41. b. nu. 8. 14. H. 7. 31. b.*

One not party nor privie who is present at a felonie, and doth not disturb it, nor pursue the felon, is kneable. *Dal. 284. Lam. 289. Cro. 44. 2. Coron. 395.*

*Accessory after the fact.*

Receiver of a felon, knowing him to be one, and suffering him to escape, whether before or after attainer. *Dal. 286. Cro. 41. a.*

Receiver or comforter of a felon with an evill intent. *Lamb. 289. Dal. 286.*

Arrester of a felon by hue and crie taketh the goods, and letteth him goe. *Lam. 290. 27. aff. 62.*

One pursuing a felon for his owne goods, taketh money of him not to give evidence against him, whereby he is freed. *Lam. 290.*

Receiver or comforter of an accessory, knowing thereof. *Lam. 291. Dal. 254.*

Receiver of one brother, knowing him to be a felon. *Lam. 291. Dal. 287.*

Receiver of an approver or one attainted, or outlawed of felony, knowing thereof. *Lam. 293.*



## Accessory and Principall.

3

To harbour a felon straitened in the same County.  
*Dal. 186. Cro. 43. 2. nu. 31. Dy. 355.*

But *Lam. 293.* holdeth it reasonable that hee first have knowledge of such a record. *Coron. f. 377.*

Receiver of stollen goods, knowing them to bee stollen. *Cro. 41. b.* many authorities remembered.

### Who not.

A sutor by word or writing for the deliverance of a felon, knowing thereof. *Lamb. 189. 290. Dal. 186. 26. Affs. pl. 47.*

Pursuer of a felon for his owne goods, taketh them againe, and letteth him goe. *Dal. 188. Lamb. 290. Fitz. 32. b. 33. b.*

Reliever or receiver of one bailed for felony. *Lam. 290. Dal. 186. Cro. 42. b.*

Buyer of stollen goods, knowing thereof. *Lam. 291.* unlesse he receive the felon. *Cro. 42. a. quere nu. 17. Dal. 187.*

The wife receiving the husband, knowing him to be a felon. *Lam. 291, 292. Fitz. 33. b. Dal. 187. quere.*

Receiver of the striker of the blocke, after the stroke, and before the death. *Lam. 292.*

Felony by statute hath accessaries before and after the fact, as a felony hath at the common law, though the statute speake not thereof. *Lamb. 185. Lamb. 186.*

After acquittal as principall, one may be arraigned as accessory after the fact, but not before the fact. *Lamb. 292, 557. f. Coron. 100. & 463. but 424. contr.*

One may be accessory to an accessory: as, if one feloniously receive or comfort an accessory. *Dal. 189. Cro. 42. b. Lamb. 291. 26. Affs. pl. 52.*

**'Accessory and Principall.*****Who shall be said a Principall.***

Those of the society of a felon, and present at the fact, though not actors. *Dal.* 283. *Stamf.* 40.2. *Cro.* 22.2. *nu.* 10, 15.

An abbetter, procurer, or receiver of a woman, knowing her to be taken away contrary to the Statute. 3. *H.7. cap.* 2. *Lam.* 285.

Accessory in one countie to a felonie done in another countie, may be indicted where he becommeth accessory. 2. & 3. *Ed.* 6. 24. *Dal.* 289.

It is no good indictment against an accessory, to say, that hee received the goods, without saying hee received the felon. *Lam.* 500, 291. *Coron.* f. 126. & 108.

Acquittall, *Vide* Enditements.

**Additions.**

In every indictment or presentment where out-lawry lyeth, the estate of degree or mysterie, the towne, hamlet, or place where the indicted dwelleth, are to be added. 1. *H.5. cap.* 5. *Lam.* 488.

***What shall be a good addition of degree or estate.***

Baron, Knight, Esquire, Gentleman, Alderman, Widow, single Woman, Deane, Archdeacon, Parson, Doctor, Clerke, Parish-clerk. *Lam.* 488, 489, 490.

***What not.***

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertaine, as Farmer, Servant, Butler, Chamberlaine. *Lam.* 489.

**What**

## Addition.

5

*What shall be a good addition of  
mysterie.*

Chopchurch, Merchant, Grocer, Mercer, Taylor,  
Broker, Husbandman, Hostler, Literman, Waterman,  
Spinster, *Lam.* 489.

*What not.*

That which is no mysterie nor degree, as Citizen; nor any unlawfull trade, as Extortioner, Main-  
tainour, Vagabond, Hereticke, Dicer, Carder, &c.  
*Lamb.* 462.

Addition of degree or mysterie must bee as the  
partie then is. But addition of the place may be such  
whereof he was. *Lamb.* 489, 490. 9-E.4.2. *Additions*  
*Br.* 41.

Addition of degree and mysterie must be knit to  
the proper person. *Lam.* 489.

The Statute of the 1.H.5. cap. 5. of additions, doth  
not extend to informations. *Lam.* 510. 13.H.7.21.b.

*What shall be a good addition of  
place.*

Either of the Towne or Parish, if they be both of  
one name. *Lam.* 490.

Of the Towne onely, where there be two Townes  
in one Parish. *Lamb.* 490.

Either of the Towne or Hamlet, if there be two  
Hamlets in one Towne. *Lamb.* 490.

Of the Towne, if the person be of a place knowne  
within the Towne. *Lamb.* *ibid.*

Addition must comprehend the County, Towne,  
or Hamlet, whereof the party is or was. *Lam.* *ibid.*

## Affray and Affrayes.

*What not.*

Of the place whereof he is parson, without naming the place of his abode. *Lamb. ibid.*

## Affray and Affrayes.

An affray may be without word or blow, as to be armed with armour or weapon not usually borne. *Lamb. 126.*

Constable or other officer may lay no hands on any intending to make an affray, till weapon drawne or offer of blow. *Dal. 34. Lamb. 132.*

*Vide plus Constable.*

Affrayer may be commanded by the Constable or other officer, to avoid upon paine of imprisonment: and if the affray be great, they may make proclamation, and command the parties to prison for a small time; whom he must deliver without fine. *Dal. 34. Lamb. 132.*

Every private man present at an affray, assault, or battery, may part them, stay them that come to the affray with weapon, stay the affrayers till the heat be over, and then deliver them to the Constable; but may not commit them, unlesse one of the affrayers be in perill of death; and if hee flie into a house upon hue and crie, breake and open the house, and take him. *Dal. 33. Lamb. 131. Cro. 146. a. 3. H. 7. cap. 1. vide Coron. f. 395.*

## Agnus Dei, Croffes, Beads, Pictures, &c.

If any person, to whom any of these, or any other superstitious things from the See of Rome or authority thereof bee offered, doe disclose the name, dwelling, or place of resort of such offerer or deliverer,

verer, to any Justice of Peace of the same Shire, the same Justice must within fourteene dayes next after declare the same to some one of the Privie Councell on paine of Premunire. 13. *El. cap. 2. Dal. 106. Vide plus* Treason, Misprision, and Premunire.

## Alehouses.

Two Justices, one being of the Quorum, may license one to keep a common Alehouse, taking bond with good surety for good rule to bee kept in his house. 5. *Ed. 6. cap. 25.*

Twelve pence is given to the two Justices of Peace, for taking a recognizance of him that is allowed to keep a common Alehouse. 5. *Ed. 6. cap. 25. Lamb 370.* Condition of a recognizance for an Alehouse. *Lamb. 354.*

He that keepeth an Alehouse of his owne authority, without licence of two Justices, one being of the Quorum, or after prohibition of two such Justices, may by two such Justices be committed to prison for 3 daies without baile, and till hee be bound with two sureties to keep none after. *Dal. 29. Lamb. 354. Vide Stat. 3. Car. 3.*

Information of the offence and recognizance taken by two Justices, one being of the Quorum, of an Alehouse kept against the statute of 5. *Ed. 6. cap. 25.* is a sufficient conviction without further trial at the Sessions: and they may assesse the fine of 20. shill. without making processe against the offender. *Lamb. 572.*

Information made in Sessions, that an Alehouse-keeper hath done an act, whereby hee hath forfeited his recognizance, they may award processe against him, to shew why he should not forfeit his

recognizance. *Quere* what proceſſe. *Lam.* 524, 529.

*Quere* whether Alehouſe-keepers having forfeited their recognizance, ought to be at the Quarter Sessions. *5. Ed. 6. 25.*

Fines impoſed by the ſtatute of *5. Ed. 6. ca. 25.* concerning Alehouſes cannot be altered by the Juſtices of Peace. *5. Ed. 6. 25. Lam.* 578.

Juſtices of Peace muſt certiſie the recognizance taken for Alehouſes at the next Quarter Sessions after they are taken, or loſe 5 Marks. *5. Ed. 6. cap. 25.*

Any directly or indirectly ſelling Ale or Beere unto any Alehouſe-keeper not licenſed; more than for his neceſſary proviſion for his houſhold, ſhall loſe after the rate of 6 ſhill. 8 pence for every barrel. For the levie and diſpoſall of the penaltie, ſee *Vic. Fuals.* 4. *Jac.* 4.

Alehouſe-keeper or Inne-keeper ſuffering any tipling contrary to the *1. Jac. cap. 9.* 4. *Jac. cap. 5.* 7. *Jac. ca.* 10. 21. *Jac. c. 7.* forfeiteth 10 ſhill. and every ſuch tipler 3 ſhill. 4 pen. for not ability of payment the Alehouſe-keepers, &c. to be committed to the Goale till the penalty bee payed, *1. Jac.* the tipler to the ſtockes for 4 houres. 4 *Jac. Dal.* 28. *1. Car.* 4.

Juſtice of Peace hath power in thoſe caſes to miniſter an oath to witneſſes. *1. Jac. 9.* 21. *Jac.* 7.

The Conſtables and Churchwardens neglecting to levie, or to certiſie the cauſe thereof by 20 dayes to the Juſtice that granted the diſtreſſe, doe forfeit 40 ſhill. in default thereof to be ſent to the Goale. *1. Jac. 9.* *Dalt.* 28. *Crom.* 78. a. Alehouſe-keepers and Inne-keepers ought to lodge travellers. *Quere* how he is compellable, and ſee the opinion of Sir *John Ley* chiefe Juſtice at Lent Aſſiſes. 1622. *Dal.* 2. 39. *H. 6.* 18. *Moyle.* 5. *E.* 4. 2.

3. Alehouſe-keepers are diſabled to keep Alehouſe

house three yeeres, if they suffer tipling. *Dalton* 31.

2. If they sell not a quart of the best, and 2. quarts of small beere or ale for a penny. *Ibid.*

3. If they be convicted by Indictment at the Assises, Sessions, or Leet, for being drunke. 4. *Jac. cap. 5.* or before one Justice upon oath of one witness, 21. *Jac. 7.* continue drinking in another Alehouse, 7. *Jac. 10.* 4. *Jac. 5 Dal. 32. Vide plus Viſtuallers Confession.*

If any unlicensed Alehouse-keepers be convicted by the view of any Justice of the Peace, confession of the offender, or oath of two witnesses, hee loseth 20. shill. to the use of the poore of the Parish, to be levied by way of distresse by warrant from the Justice of Peace convicting, and within three dayes to be sold. 3. *Car. 3.*

Where there is no sufficient distresse or non payment, within six dayes after conviction, the offender is to be openly whipped as the Justice of Peace shall limit. 3. *Car. 3.*

The Officer refusing or neglecting to execute the Justice his precept, is to be committed to the Goale, untill he doe or procure the offender to be whipped, or pay 40. shill. to the use of the poore of the said Parish. 3. *Car. 3.*

The second offence is commitment to the house of Correction for a moneth. *Ibid.*

The third offence is to remaine in the house of Correction till he be delivered at the generall Sessions. *Ibid.*

He that is punished by the Act 3. *Car. 3.* not to bee punished by the Statute. 5. *Ed. 6. 25.*

Alias dictus, *vide* Enditement.

Alien and his tryall, *vide* Tryall.

Allageance,

Allegiance, *vide* Supremacy.

### Amerciamentis.

The owner of a beast, knowing it to be harmful, and not restraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King. *Lamb. 239. Cro. 24. 45. Exod. 21.*

Offenders in gathering more amerciamentis than are in their lawfull estreats, to be convicted by two Justices, one to be of the Quorum, appointed by the Custos Rotulorum, or in his absence by the eldest of the Quorum, for the oversight of the Sheriffes. *11. Hen. 7. cap. 15.*

Estreats of amerciamentis must be by Indenture between the two Justices (appointed for oversight of Sheriffes books) and the Sheriffe or Under-Sheriffe under their seals, or else the Sheriffe to lose 40. shil. *11. Hen. 7. cap. 15.*

No amerciament for default of appearance, when the Sessions are not summoned by precept. *Lam. 381.* or when the summons is at one place, and kept at another.

Or when the Sessions were the same time at two places, & the party appeared at one of them. *Lam. 384.*

One Justice of Peace cannot amerce his fellow for absence from the Sessions; but a Justice of Assise may amerce a Justice of Peace for his absence from the Goale-delivery. *Lam. 385.*

Clerke of the Peace, Coronors, Sheriffes, Bailiffes of Franchises, Constables of Hundreds, may be amerced for default of appearance at Sessions. *Lam. 395.*

Amerciamentis of Jurours for concealment, *Vide* Jurours. *Lam. 400, 401. 3. R. 7. cap. 1.*

Appearance.



## Appearance,

11

Recognizance taken for the Peace against all the Kings people, and to appeare at the next Sessions by Superdedcas out of the Chancery, testifying suretie found there against all the Kings people for ever, will discharge the appearance of the next Quarter Sessions. Otherwise it is, if it be but untill a day certaine. *Lam. 99, 106, 107. Dal. 169.*

Who shall be amerced for default of appearance, and who not, *vide*

Amerciaments, *vide* Release.

Apparrell, *stat. repealed.*

Appeachment, *vide* Approvers.

## Appeale.

Justice of Peace can take no appeale of any felony. *Stamf. 65. a. quere tamen.*

Appeale of robberie, *vide* Attainder.

## Apprentices.

One thought fit to be bound as an Apprentice, upon complaint made, and refusing to bee bound, shall be committed till he will be bound. *5. El. 4. Dal. 78.*

Upon complaint of an apprentice, one Justice may take order betwixt his master and him, and for want of conformity in the master, may bind him to appeare at the Quarter Sessions. *Dal. 78.* and to be discharged by foure Justices. If default be in the apprentice, it seemeth one Justice may send him to the house of correction. *Dal. 78.*

Assent of two Justices is sufficient to the Churchwardens or Overseers, or the most of them, to bind as apprentices the sonnes of poore parents till 24. yeeres of age, or their daughters till 21. yeeres of age. *39. Elis. 3. 43. El. 2. Dal. 83. Lam. 331. 21. Jac. c. 28.* continued by *1. Jac. c. 25.*

Disposition

Disposition of money given for putting forth apprentices, and the nomination and placing of them must be by Corporation, and in Townes not corporate by the Parson or Vicar, Constable, Churchwarden, and Overseers for the time being, or most part of them, the same to be according to the will of the giver: And any of the disposers forbearing and refusing to dispose of the money, whereby it is not disposed, shall lose 3.pounds 6.shillings 8.pence, one moytie to the poore of the Parish, the other to the Informer. 7.*Jac.* 3.

Disposers of such money given for apprentices, are to take bond with two sureties of such master or masters, for such money as they shall so receive, for the repayment thereof at the end of seven yeeres, or three moneths after. 7.*Jac.* 3. Or if the apprentice dye within 7.yeeres, then to repay the money within one yeere after such master or masters death. 7.*Jac.* 3.

The master or masters dying within 7.yeeres, the disposers are with the said money to put out the said apprentice to some of the said trade, to serve out the residue of his 7.yeeres. 7.*Jac.* 3.

Money given for putting forth apprentices, is to be disposed within 3.moneths after the receipt. *Ibid.*

None above 15.yeeres old are to be placed by the disposers, and those to be of the poorer sort; and for want of such they may choose others of the Parish next adjoyning. *Ibid.*

Disposers of money for apprentices are to account before two Justices next adjoyning yearly in Easter week, or within a moneth after: and within twenty dayes after such account made, must deliver all such money and bonds remaining in their hands. *Ibid.*

Breakers

## Approvers or Appeachers. 13

Breakers of trust for disposing money given for apprentices, are to be examined and redressed by Commission out of Chancery returnable within three moneths, and the party grieved by an act of the Commissioners is to be relieved upon his Bill in Chancery. 7. Jac. 3.

Certificate to the head-officer of City or Borough, that the parents of an apprentice to a Merchant, Mercer, Draper, Goldsmith, Ironmonger, Embroiderer, or Clothier, may dispend 40. shillings freehold, must be under the hands and seales of three Justices where the land lieth. 5. Elis. cap. 4.

Apprentice is to be discharged by foure Justices in open Sessions. Dal. 79.

The discharge of an apprentice is to be inrolled by the Clerke of the Peace. 5. Elis. 4. *Vide plus* Labourers.

A master putteth his apprentice into apparrell, he cannot take it away, though he part with his apprentice. Dal. 96.

## Approvers or Appeachers.

Goaler, keeper, or under-keeper by paine compelleth his prisoner to become an appeacher of others, it is felonie. 14. E. 3. cap. 10.

Justice of Peace can take no appeale of an approver. Lam. 550. Dal. 312. Stamf. 144. 2. 9. H. 4. 1.

One felon accuseth another before the Justice of Peace; they may take his confession and reprieve him, and so proceed against the other. Lam. 551.

## Archerie.

The Statute of Bowes is not repealed. 33. H. 8. c. 9.

Armour.

Any (except the Kings officers and their companie doing their service) riding or going armed, or bringing forth in affray of the people, are to be imprisoned, and lose their armour. 2.E.3.cap.3.Dal.35.Cro.76.a.

Justices of the Peace not looking to the execution of the Statute of fearing the country with going or riding armed, upon inquiry by the Judges of Assize, are to be by them punished. 2.E.3.cap.3.

The counterpain of the Indenture of armour to be kept by the Clerke of the Peace. 4.& 5.Ph.& M.s.2.

The Statute 4.& 5.Phil. & Mary concerning keeping of horses and armour, with the penalties thereof, are repealed. 1.Jac.25.

Armour and Munition of a Recusant convicted, being in his owne possession, or at his dispose, other than such as shall be thought meet for the defence of his person and house, by warrant of foure Justices at the Quarter Sessions are to be seised and kept at such place as the foure Justices at the Sessions shall appoint, at the cost of the owners; and they concealing or disturbing the deliverie of it, lose the armour and munition, and by warrant from any Justice of Peace, to be imprisoned three moneths without baile. 3.Jac.5. Recusant having his armour seised, is to be charged with such armour and horse, as hee and others of his Majesties subjects shall be commanded to serve with at musters. 3.Jac.5.

Any Justice of Peace may arrest any (except the Kings officers, and such as doe him service) that goe armed, and bind them to the peace, or good behaviour. Dal.30.Crom.76.a.Lam.of Const.13.

A Justice of Peace may cause weapons to be taken from prisoners brought before him. Dal.36.

No servant in husbandry, artificer, victualler, or labourer, shall weare sword or dagger. 12.R.2.c.6.  
*Dal.36.Cro.76.*

## Arrests.

An Arrest is a certaine restraint of a mans person, depriving it of its owne will and liberty, and binding it to become obedient to the will of the law. *Dal.335. Lamb.93.*

All lay persons under the degree of a Baron or Peere of the Realme, are subject to an arrest. *Lam.93. Dal.161,162,335.*

Ecclesiasticall persons not attendant upon divine Service, may be arrested for the peace. *Lambibid. Dal.162.*

Constable, or Justice of Peace comming to arrest an affrayer, if hee flie into another house, they may in fresh suit breake open the doore, and take him so if he flie into another County. *Lam.134. 13.E.4.9.*

All that come to the Sessions for publike service, or upon compulsion, upon complaint and examination of the matter by oath, shall be freed from any arrest upon originall processe. *Lam.402.*

Bailiffe, taking above 4.pence for any arrest, shall forfeit 40.li. 23.H.6.cap.10.

Arrest of Rioters, *vide* Riot.

Arrest, *vide* Sheriffe, *vide* Prison.

The officer ought to require the party to come and find surety of the peace, before he arrest him, by the opinion of 5.Ed.4.31. *Lamb.90.*

If one required by the officer upon warrant to find surety of the peace, refuse, the officer by vertue of his warrant may convey him to prison. *Lam.92. Dal.167.*

A Constable taking an affrayer, may not imprison him in his house, but in the stocks. *Lam.* 133.3. *H.* 4.9. 22. *E.* 4.35.

## Arraignment.

Arraignment is commonly a compulsory coming of one indicted of a matter touching life or such hainous offence, and a pleading not guilty. *Lamb.* 546.

One coming in freely, and indicted of an inferiour offence, may be arraigned. *Lamb.* 547.

One arraigned of felonie, if his case will serve, may plead a justification or matter in law. *Lamb.* 547.

Artificers, *vide* Labourers.

## Assault.

Assault cannot be made without the offer of some hurtfull blow, or at least of some fearfull speech. *Lamb.* 126.

To rebuke a collectour with foule words, so that he depart with feare, without doing his office, was taken for an assault. *Lamb. ibid.* 27. *Aff.* 11.

To strike at a man, although he were neither hurt nor hit with the blow, is an assault. *Lamb. ibidem.* 22. *Aff.* 60.

Maker of an assault, battery, or other trespassse upon the body of another, is to be fined.

Servant or workman, convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting Master, Dame, or Overseer, is to be imprisoned a yeere, and any other corporall punishment saving life and member. *5. Elis. cap.* 4. & *3. Dal.* 80. *Cro.* 84.2.

## Afsize of Bread and Beere. 17

If another assault me, if I may escape with my life, it is not lawfull for me to beat the other. *Dal. 206.*

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justifie the beating of the other. *Dal. 180, 206.* Yet by opinion of *Elyot, 12. H. 8 fo. 2. b.* it is not lawfull, except there be such perill as another is like to perish, if there be no help. *Dal. 206.*

Assembly lawfull, *vide* Unlawfull assembly.

## Afsize of Bread and Beere.

Any Brewer, or Baker, or Tipler, breaking the Afsize of Bread and Ale, to be fined. *13. R. 2. c. 8. Lã. 459.*

Any officer taking fine for breach of the Afsize of Bread and Ale, where there ought to be a corporall punishment, is to be fined. *13. R. 2. c. 8. Lamb. 459.*

## Attainder.

One attainted of felonie may bee arraigned for treason committed before or after the attainder. *Lam. 557, 558.*

One attainted upon an appeale of robbery, may be arraigned upon an appeale of robbery at anothers suit. *Lam. 558.*

One attainted of felonie, by standing mute, may after be arraigned of another felonie. *Lam. 558.*

One attainted of felony, cannot after be arraigned of another felony, so long as the first is unpardoned, unlesse it be in the cases before. *Lam. 557.*

After the attainder, the felons grant of goods or lands bindeth all persons, except the Landlord, to

whom they escheat. *Dalton* 294.

Indictment is, when an offence is found by the great Inquest, or other jury of inquirie.

Conviction is, when the offender is found guilty by a second Jury, having put himselfe to tryall.

Attainder is, when after such conviction judgement is given against the offender. *Dal.* 295.

A wait lying, *vide* Way-laying.

### Averments.

No man shall be received to averre or speake against a record. *Lam.* 63.

### Badgers and Drovers.

**L**icence to Badgers and Drovers, and Loaders of Corn, must be in open Sessions, and there registered and kept by the Clerk of the Peace. *5.El.c.12. Lam.* 610.

Offences against the statute of Badgers and Drovers, may be enquired of aswell by examination of witnesses, as by presentment. *5.El.cap.12.*

The forfeiture due to the informer upon the Statute of Badgers and Drovers, is to be levied by *Fieri facias*, or *Capias*, awarded by the Justices of Peace. *5.El.cap.12.*

### Bailment.

Bailment, Mainprise, or Replevin, is the saving or delivering a man out of prison before hee hath satisfied the law; so by finding sureties to answer, and to be justified by the law. *Dal.* 304. *Lam.* 340.

Hee that is bailed, is delivered into his sureties hands to be kept. *Dal.* 304. *Cro.* 152.b. *Stam.* 65.a.

If the sureties doubt the escape of the prisoner bailed,



bailed, a Justice of Peace upon prayer may discharge the sureties, and commit the party to prison. *Dal. 304. Cro. 153. a. 157. a.*

A Justice of Peace may cause the bailed to find better sureties. *Dal. 304. Cro. 152. b.*

It is requisite to take two subsidie men for baile, especially if it be for felonie, or suspicion thereof. *Dal. 305.*

To detain a prisoner that isailable, is fineable. *Dal. 305.*

To baile one notailable, is a negligent escape. *Dal. 305.*

A Justice of Peace bailing contrary to the law, or not certifying the baile and examination of the felon, is fineable by the Justice of Gaule-delivery. *Lam. 345. 1. & 2. P. & M. 13. Dal. 306. Cro. 167.*

Where one isailable, hee must offer sureties. *Dal. 307.*

*For what offences a man is notailable by a Justice of Peace by the statute of W. 1. 3. Ed. 1. 15. Cro. 156. a. Lam. 345.*

- 1 Abjured the Realme. *Dal. 308.*
- 2 Approver or appellour. *ibid.*
- 3 Appealed by an approver. *ibid.*
- 4 Burning a house feloniously. *ibid.*
- 5 Excommunicat. taken at the Bishop's request. *ib.*
- 6 Felon taken with the manner. *ibid.*
- 7 A knowne thiefe and defamed. *ibid.*
- 8 Outlawed. *ibid.*
- 9 Prison-breaker. *ibid.*
- 10 Traicour to the King himselfe. *ibid.*
- 11 Falsifier of the Kings money. *Dal. 309.*
- 12 Counterfeiter of the scale. *ibid.*

- 13 Attainted or convicted of felonie. *ibid.*
- 14 Accessary to two felonies, if one principall be attainted. *Dal.* 311.
- 15 Death of man, if he be principall. *ibid.*
- 16 Taken upon Proces of rebellion issuing out of Chancery or Starchamber. *Dal.* 312. *Lam.* 347.
- 17 Arrested by Proces, Writ, Bill, or Warrant, in an action personall. *ibid.*
- 18 Persons convicted of felonie, praying Clergie and reprieved. *Dal.* 310. *Cro.* 154.2.

*For what offences a man is notailable by  
a Justice of Peace.*

A Justice of Peace is not to baile but in causes which he may heare and determine. *Lam.* 346.

Murder, or any other homicide. *Dal.* 307.

Confessing the fault of manslaughter. *ibid.* L<sup>a</sup>. 34.

Taken in the manner for killing. *ibid.*

Knowne to have killed a man.

By the King, or his Privie Councill. 308.

By the absolute, not ordinarie command of the Kings Justices. *ibid.*

For trespasses in the Forrest. *West.* 1. cap. 15.

Confessing the felonie whereof he is accused.

Imprisoned for suretie of the Peace. 23. H. 6. c. 10. *Lam.* 346.

\* Speciall commandment of any Justice. 23. Hen. 6. cap. 10. *Lam.* *ibid.*

Where Bailment is taken away by statute, vide *Dal.* 312. *Lam.* 340, 349.

*For what offences a man isailable.*

Taken for light suspicion. *Dal.* 309.

Indict<sup>d</sup>

Indicted of pettie larcenie, not being formerly guilty of another. *ibid.*

Charged, 1. With the receipt of thieves, of felons. *Dal. 310.*

2 Of commanding force or aide. *ibid.*

3 With the trespassie that toucheth not losse of life or member. *Dal. 311. West. 1. 15.* if not prohibited by some latter statute, appealed by an Approver, being no common thiefe, nor defamed after the death of the Approver. *Dal. 312.*

Indictment of manslaughter, & acquitted. *Lā. 347.*

Arrested by force of any Writ, Bill, or Warrant in any action personall, or upon any indictment of trespassse. *Dal. 312.*

Acquitted of murder or manslaughter at the Kings suit,ailable during the yeere. 3. *Hen. 7. cap. 1. Lam. 347.*

Imprisoned by Proces out of the Sessions upon peynall lawes not forbidding baile,ailable out of the Sessions by two Justices, one being of the Quorum. *Dal. 311. Lam. 348.*

Accused of homicides which are not felonie.

Accessory to felonies. *Dal. 310.*

If they be found of good fame, untill the principall be convicted or attainted: but after the principall is attainted, hee is notailable, except he plead not guilty or other plea. *Dal. ibid. & 311.*

Principall in burglarie. *Dal. ibid.*

Principall in an indictment of rooberie. *Dal. ibid.*

Principall in an appeale of rooberie. *Dal. ibid.*

Attached by Sessions Proces upon indictment of trespassse, may beailed by one Justice of Peace to appeare at the day to answer the indictment, and may make his Superseas, *cap. indict.* and so of the exigent. *Dal. 311.*

In every bailment which must be by two Justices, one of them being of the Quorum, the Justices must be present together at the time of the bailment, who before baile taken must examine the prisoners, and receive the information of them that bring them: all which with the bailment they must put in writing, signed or subscribed with their own hands, and certified at the next Goale-deliverie to be holden in the County. 1. & 2. P. & M. ca. 13. Dal. 306.

The said Justices have authoritie to bind all persons that can give evidence, to appeare the next Goale-deliverie to give evidence against the partie at the time of his tryall. Dal. 295.

Some stat. not only take baile from the offenders thereof upon their solemn conviction after judgement, but also upon the record of one or two Justices, or by examination or proove of witnesses, or other such private tryall had before them. Lamb. 349. for the forme of bailment. Lam. 252. Dal. 387. The forme of the liberate. 388, 389.

### Bailiffes.

Bailiffe is punishable in false imprisonment, if he compell the partie to goe before any other Justice than he chuseth. Lam. 89.

But now the law is adjudged to be, that the Bailiffe or Constable shall chuse the Justice. Dal. 59. and Cook 59. Fosters case.

As the Bailiffe may not compell him that is arrested for surety of the Peace, to go before him that granted the warrant; so it is not reasonable that the Bailiffe shall be drawne out of the division and limit where they both dwell. Lam. 90, 95. Dal. 187.

A Bailiffe arrests a man without a warrant for the Peace, and afterwards procures one, he is punishable  
in

in false imprisonment. *Dal.* 333. *Cro.* 149. a. *Lam.* 90.

A Bailiffe arrests one by warrant for the Peace, the Justice will not bind the party, no action lieth against the Bailiffe. *Dal.* 1. *Lam.* 85, 91.

Two Justices of Peace, one being of the *Quorum*, may give unto the Bailiffes of Franchises before they exercise their offices, the oathes of 1. *Elis.* of supremacy, and 17. *Elis.* touching their offices. 27. *Elis.* cap. 12.

Bailiffe taking above 4. pence for an arrest, is to forfeit 40. li. 23. *H. 6. cap.* 10. ante fo. 15.

Bailiffe of the Hundred that executeth not a warrant against any default in the Sheriffes Court, shall lose 40. shill. 11. *H. 7. c.* 15. *Vide plus Warrants.*

Bakers, *Vide* Assise of Bread.

### Barettour.

A common Barettour is he, who is either a common mover, stirrer up, or maintainer of suits in law in any court, or quarrells in the countrie. *Dal.* 36. *Lam.* 440. *Cro.* 84. and is to be bound to his good behaviour, and imprisoned. *Lam.* 440. *Vide plus Dal.* 36. *Cook* 8. 36.

Bargaine and Sale, *vide* Inrolment.

Barke of Trees, *vide* Leather.

### Bastardie.

Two Justices of Peace, one being of *Quorum*, in or next to the Parish, where a bastard left to the charge of the Parish, or likely to be chargeable, is born, are to take order for the reliefe of the Parish, keeping of the child, and punishment of the reputed father and mother. 18. *El.* 3. 7. *Jac.* ca. 4. *Dal.* 37.

The reputed father & mother not performing the order set downe by two such Justices, the delinquent

is to be sent to the Goale without baile, except they pult in sureties to performe the order, or appeare at the next generall Sessions of the Peace. *Dal. 38.*

All Justices of Peace in their severall limits, and in their Quarter Sessions, may doe all things concerning the statute, 18. *Eliz.* for Bastardy, which is limited to the Justices of Peace in severall countie. 3. *Car. 4.*

Reputed father to be bound in the good behaviour till the childe be borne. *Dal. 37.*

*Vide plus* House of Correction.

If the putative father shall either before or after the birth of the childe, by practise of any other, convey himselfe away, or cause the mother to runne or leave her childe, such may be bound over to the next Goal-deliverie or Quarter Sessions. *Dal. 37.*

### Batterie.

Batterie lawfull, *vide* Riot, Assault, Breach of the Peace.

Bath and Buxton, *vide* Licence.

### Bawderie.

Bawderie is not meerly a spirituall offence, but mixt, and foundeth somewhat against the Peace. *Dalton 189. Lam. 119.*

A Constable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a suspected house in the night, may take company with him, and if he find them so, he may carry them to prison, or to a Justice, to be bound to their good behaviour. *Dal. 189.*

Resorters to Bawdy-houses are to be bound to their good behaviour, *Dal. ibid.*

Keepers

Keepers of Bawdy-houses are to be bound to their good behaviour. *Dal. ibid.*

Bead, *vide* Agnus Dei.

Bearewards, *vide* Licence.

Beere and Beere-brewers, *vide* Victuallers.

Beggars, *vide* Rogues and Poore people.

Blockwood, *vide* Logwood.

### Bloudshed.

Presentment of bloudshed found in the Sheriffes Turn, and sent to the Justices of Peace, can neither be traversed before the Justices of Peace, nor at the Sheriffes Turn.

Bonds, *vide* Recognizances.

### Bowyers.

The statute not repealed of 33. H. 8. 9.

### Brasse and Pewter.

Brasier nor Pewterer may exchange or sell any brasse or pewter, but in open Market or Faire, or in his house, unlesse upon request of the buyer, on pain of ten pounds for each offence. 19. H. 7. 6. 6. 4. H. 8. 7. and inquirable at the Sessions. *Lam. 621.*

All working hollow wares of other lay metall, than according to the assize of the lay metall wrought in London, or not setting their seale on, lose the wares. Searchers of brasse and pewter must be appointed by the Justice of Peace at Michaelmas Sessions. 19. H. 7. 6. 4. H. 8. 7. *Lamb. 621.*

### Breach of the Peace, or good Behaviour.

What shall be accounted a breach of the Peace.

To threaten one to his face to beat him, at whose suit hee was bound. *Lamb. 115. Dal. 177. Cro. 136.*

or

or in his absence, if he after lie in wait to doe it. *ibid.*  
*Lam. 115.*

To command or procure one to doe any unlawfull act against the peace, if it after be done.

Menacings, affrayes, assaults, injurious and violent handlings & entreatings, battery, and malicious strikings, imprisonment without warrant, to thrust one into the water to endanger him, to ravish a woman, to commit felony or treason. *Dal. 177, 178. Lam. 127.*

A Farmer, Tenant, or Commoner, by threats or blowes to repulse violence offered his Land-lord or Maior. *Dal 181. Lam. 129.*

What act soever is a breach of the Peace, the doing thereof doth beget a forfeiture of the recognizance, made for keeping of the peace. *Dalton 177. Lam. 114.*

*What not.*

In his absence to threaten to beat him, at whose suit he was bound to the Peace. *Dal. 177.*

Threats or moderate correction of the Master, Schoolmaster, Goaler, to those under their command, of Parents to the child within age, of the Lord to his villain. *Dal. 179. Lam. 127.*

To beat with rods a kinsman that is mad, to the end to reclaime him. *Dal. 170. Lam. 128. 22. ass. pl. 56.*

Constable, Officer, or any of their company, to strike any for better execution of their office. *Dalton 180. Lam. 128.* By threats or blowes to repulse violence offered to ones owne person, wife, father, mother, childe, master. *Dal. 180.*

Preservation of his owne goods. *Ibid. Lam. 129.* and *Crom. 136. b.* affirme that the Master may beat him that doth assault or beat his servant: but *Dalton* maketh a quere of it, and that a Master may only with sword



sword or staffe defend him. 181. *Pax Reg.*

To kill or hurt one at fence, play, tilt, tournament, or barriers in the Kings presence, or by his command. *Dal.* 180. *Lam.* 129.

To take ones goods wrongfully, if not from his person, *Lam.* 130. *Dal.* 181. is no forfeiture of his recognizance.

So to take away anothers ward. *Dal.* 182. *Lamb.* *ibid.*

To trespasse in anothers corne or grasse. *ibid.*

Trespasse lyeth at the Common Law, for threatening to beat one.

*Vide plus* Forfeiture.

It is no breach of the Peace for a private man to strike or wound another in defence of his owne person from beating, wounding, or killing: but if hee may escape with his life, without being wounded, maimed, or hurt, it is not lawfull, except he first flie as farre as he can. *Dal.* 180. *Cro.* 137.

To take a dogge of any kind, or other thing of pleasure from the person of another, or in his presence with force or violence, amounteth to a breach of the Peace. *Dal.* 164. *edit.* 1626.

Brewers, *vide* Victuallers.

## Bridges.

A man voluntarily maketh or amendeth a bridge, he is not compellable to doe the same again, unlesse he and his ancestors have used so to doe time out of mind. *Dal.* 41. *Cro.* 186. a. b.

It being not knownt who or what land is chargeable with the repairing of a decayed bridge, foure Justices, one being of the Quorum, may taxe the inhabitants, and make Collectors and Overseers for the repairing of it. 22. H. 8. ca 5. *Dal.* 40.

Justice

Justice of Peace, where a decayed bridge is, may award Procces in the County where the party or land chargeable is. 22.H.8.5.

A bridge lying in a corporation, the hundred shall not be charged therewith; & *è converso*. Dal.40,41.

A bridge lying in two severall Counties, either must repaire his part. Dal.41.

### Buckstalls.

One suspected to have offended against the statute, 19.H.7.c.11. of deer-hayes, and buckstalls, &c. is to be examined by two Justices at Quarter Sessions, and being convicted by his own examination only, is to be imprisoned till he find surety for the forfeiture. 19.H.7.11. Lam.535,630. the tenth part whereof the Justice examining shall have. *ibid*.

### Buggerie.

The sin of buggerie with a man or beast, is felonie. 25.H.8.c.6. 5.E.17. Lam.227,256,421.

Bull from Rome, *vide* Treasons.

### Burglarie.

Burglarie is when one or two in the night time do breake a dwelling house, or a Church, or the walls or gates of a Citie or walled Towne, with an intent to doe felonie, albeit they carry away nothing. Dal.252. Cra.312. Lam.258,259.

The night is from sun-setting to sun-rising, *ibid*. Lam.259,423,424. Dal.252.

*What all shall make a burglarie without  
entring into the house.*

Putting backe the lease of a window. *Dalt. ibid*. Cra.33.b. Lam.262.

Drawing

Drawing the latch of a doore. *Dal. ibid. Cro. 33. b. Lam. ibid.*

Turning the key being on the inside. *Cro. 31. b. Dal. ibid. Lam. 261.*

Breaking the glasse-window, and hooking out of goods. *Lam. ibid.*

Making a hole in the wall, and shooting one within the house. *Dal. 252. Cro. 31. b. Lam. 263.*

The doore being open, to put his hand over the threshold, and discharge a dag at any within. *Dal. ib. Cro. 31. a. Lam. 263.*

They within cast out their money for feate, and they without carry it away. *Dal. on 253. Cro. 31. b. Lam. 261, 262.*

*Without breaking the house.*

To set foot over the threshold with a felonious intent. *Dal. 253. Cro. 32. a.*

To come downe by a chimney. *ibid.*

To come in by help of a key. *ib. Cro. 31. a. Lam. 262.*

To enter the doores being open, and the owner flying to his chamber, to thove at the chamber-door. *Dal. ibid. Cro. 32. b. Lam. 262.*

If pretending to be robbed, by help of the Constable for search they rob the owner. *ibid. Lam. 263.*

If upon conspiracie with a servant, the servant openeth the doore, and the thiefe entreth. *Dal. 253.*

One entering, and the rest standing about the house, or not farre off. *ibid. Lamb. 264.*

*What place makes Burglarie.*

Publike, as Church-walls, or gates of a Citie or Towne walled: Private, as a dwelling house, if any  
be

be within. *Dal. 253. Cro. 33. a. Lam. 260, 261.*

The family for part of the night is abroad, and in the interim the house is robbed. *Dal. 254. Cro. 33. a.*

A man hath two dwelling-houses, and dwelleth sometimes at the one, sometimes at the other, and hath servants at both, and the servants are abroad, in the night the house is broken. *ibid.*

To breake a chamber in a Colledge or Inne of Court, though no body is in the chamber. *Dal. 254. Cro. 33. a. Lam. 260.*

Breaking a barne or stable neere to a dwelling house, to the intent to steale. *Dal. ibid. Cro. 32. Lamb. 260.*

Robbing a back house. *Dal. ibid.*

To enter to ravish a woman. *Quære Dal. 255.*

The Hoste of an Inne breaking into his guests chamber to rob him. *Dal. 254.*

### What not.

Entring only with intent to beat. *Dal. 255. Lã. 264*

Breaking and departing without entring. *Lã. 262.* but it is felonie. *ibid. Lam. 261.* it is not burglarie in one under 14. yeeres of age. *Dal. 255.*

Nor in poore persons, that upon hunger break and steale under the value of 12. pence. *Dal. 256.*

Nor in naturall fooles, or *non compos mentis. ibid.*

### Burning.

Malicious burning of houses, being dwelling-houses, or barne with corne, is felonie. *Dalton 269. Lam. 267. Lam. 266, 424.*

Burning of an empty barne in the night feloniously, if it bee nigh a dwelling-house. *Dalton 270. Lam. ibid.*

All burning that proceedeth of a former burning that

that was malicious, is felonie. *Lam. 266.*

Burning of a stacke of corn feloniously. *Dal. 270.*

## Butchers.

Butchers, *vide* **V**isuallers.

Butcher gashing a hide whereby it is hurt, loseth 20. pence. *1. Jac. 22. Lam. 462.*

Butchers watering any hides, except in June, July, or August, lose 3. shill. 4. pence an hide. *ibid.*

Butcher or any other killing calves to sell under 5. weeks old, loseth 6. shill. 8. pence a calfe. *Lam. 453.*

Or killing any weanling, bullocke, steere, or heifer, under the age of two yeeres. *Lam. 453. 24. H. 8. 9.*

Butter and Cheese, *vide* **V**isuals of transportation.

## Butts.

Inhabitants of a town, not continuing their Butts as they ought, are to lose for every 3. moneths 20. shil. *33. H. 8. ca. 9. Lam. 481.*

Buying and selling, *vide* **C**artell.

## Calves and Kine.

**A**ny killing Calves to sell under five weekes old, lose for every one 6. shillings 8. pence; *1. Jac. 22.*

Any feeding in his owne ground fit for milch Kine, wherein none hath common above 120. sheep more than for his owne provision, must raise one calfe for every 60. sheep, or lose 20. shill. a moneth for each calfe, and keep one milch cow for every 10. oxen, runts, &c. so fed, if he feed above twenty. And for every two milch kine must reare one calfe yearly,

yeerly, except it dye, upon the like paine. 2.& 3.P.& M. 3. 13. El. 25. 7. Jac. 8. Lam. 453.

Offences against this statute are determinable at the Quarter Sessions.

### Captains.

Any Muster-masters taking reward for discharging any from service, lose ten times so much, or 20. li. 2. E. 6. ca. 2. Lam. 482, 483.

Captains, or others, having the charge of men for warre, keeping backe part of their pay, lose to their souldier treble so much as is not paid: or for gain licensing any to depart, lose ten times the gain. 2. E. 6. *ibid.*

*Vide plus Travelling.*

Caps, stat. repealed, 39. El. 18. 13. El. cap. 19.

Castle, *vide Felonie.*

### Cattell.

Buyer of live oxen, runts, steeres, kine, calves, sheep, lambes, kids and goats, if he sell them within five weekes after, loseth the double. 5. E. 6. cap. 14. Lam. 452.

### Certificate.

Recognizance and release of the Peace, both are to be certified at the next Quarter Sessions. 3. H. 7. 1. but no pain by the statute to the Justice if he do not. Cro. 139. a. Dal. 173. Lam. 109.

One that is bound to the Peace, maketh default at the day of his appearance, the recognizance with the record of the default must be certified into the Exchequer, Kings Bench, or Chancery: So if it be presented that he hath broken the Peace. 3. H. 7. 1. La. 589

Sheriffe must certifie to the Justice of the next Sessions,

sions, indictment lawfully found and taken at his turne or law-day. 1.E.4.cap.2. the penaltie is 40. pound.

Clerke of the Crowne must certifie the names of any that have been out-lawed of felonie, or Clerks convicted or attainted upon the letter of a Justice of Peace, or lose 40.shill. 34.H.8.cap.14.

Transcript of every attainer, outlawrie, or conviction had before the Justice of Peace, must be certified into the Kings Bench by the Clerke of the Peace within 40.dayes after the attainer, if it be in Terme; if not, within 20.daies after the beginning of the next Term, on pain of 40.shillings. 34.Hen.8.cap.14. Clerk of the Peace must certifie to the Ordinary a transcript of the Clerkes conviction, or attainer. 34.H.8.14. Quære, because by 18.El.6. no delivery to the Ordinary. Lam.588.

*Custos Rotulorum* of the Countie where one is attainted as principall of felonie, upon writing of the Justices of the Goal-deliverie, or Oyer and Terminer of another Countie where one is accessarie unto the other, must certifie what is done with the principall. 1.E.6.24. Lam.588,589.

Where the Justices are to receive indictments and no power to proceed upon them, they must certifie them into the Kings Bench without *Certiorari*. Lam.589.

Abjuration of a seditious sectarie made in open Quarter Sessions, must be certified at the next Assises unto the Justice of Assise. 35.El.1.Lam.590.

Presentments that goods and chattels of one attainted of felonie bee in others hands, it is to bee certified in the Kings Bench, or Exchequer. Lamb.590.

Recognizance of an Alehouse-keeper must be cer-

tified at the next Quarter Sessions after the taking, or the Justice loseth 5. Markes. 5. E. 6. 25.

Certificates of dockets of Purveyors, *vide* Purveyors.

Certificate of transcripts of Records of the Sessions into the Kings Bench, *vide* Clerks of the Peace.

Certificate of Ryots, *vide* Ryots.

Certificate of Certiorari, *vide* Certiorari.

Certificate of Examinations, *vide* Examinations.  
*Vide plus* Recognizance.

### Certiorari.

Certiorari is to remove Indictments or other Records to be fully heard, where the Justices cannot proceed; or be reversed, where they have proceeded erroneously. *Lam.* 591.

A Certiorari issueth out of the Chancery, and the Records are removed thither, and sent thither by *Mittimus* to any other Court. *Lam.* 591.

Certiorari to remove matters of the Crown, need not containe the cause of the removing.

Certiorari into the Chancery hath in *Cancellaria*, into the Kings Bench *nobis mittatis*. *Dal.* 408. *Cro.* 132. a.

Certiorari may command either the Record it selfe, or the tenour of the Record. *Dal.* 408. *Cro.* 131. b. *Lam.* 515.

Certiorari is to be directed to the Justice. *Lam.* 515.

Justice of Peace ought upon Certiorari to remove the Record, though the party that brought the Certiorari sueth not after to have it removed. *Dal.* 408. *Cro.* 132. b. & 133. *Lam.* 516.

An Indictment may be removed upon a Certiorari bearing date before the Indictment was taken. *Dalton* 409. *Cro.* 132. b. 164, 167. b. *Lam.* 510.

A certificate of a Certiorari ought not to omit that



that which did authorize the Justice to make the Record, neither ought they to certifie more than the Certiorari warranteth them. *Lam. 516.*

If the Certiorari varie from the Record, the Justice need not to certifie. *Dal. 408. Cro. 132.b.*

A Certiorari is to send up the Indictment of in which others are joyntly Indicted, the Justice need not make certificate of any but of A. onely. *Dal. 408. Cro. 132.a. Lam. 517.*

A Justice may without Certiorari send into the Kings Bench a Recognizance of the Peace, an Indictment found before him, or a force recorded before him. *Dal. 408. Cro. 132.b. 133.b.* but not without Certiorari, if he be put out. *ibid.*

No bills of indictment, riot, forcible entrie, assault, or batterie found at the Quarter Sessions, shall be removed by Certiorari, unlesse it be deliivered in open Quarter Sessions, and the indicted bound in ten pound to the prosecutor with such sureties as the Justice shall allow, to pay within one moneth such costs and damages as the said Justices shall allow, otherwise the Justice to proceed to tryall. *17. Jac. 8. Dal. 213, 216.*

*Vide plus Certificate.*

**Challenge.**

One indicted of felonie, may challenge as many as he will, shewing cause: but without cause he may not challenge above twentie. *22.H.8.14. Lamb. 554. 28.H.8.cap.1.*

*What shall be a good challenge for a Juror.*

That he was an indistor of him. *Lam. 554.*

## Champertie.

That he hath not lands to cleere yearly value of 40. shill. *Lam. 554.*

In Cities and Boroughes, that hee hath no goods moveables worth 40. pound. *Lam. ibid.*

That he is not *Probus & Legalis*, as, if he be attainted of felonie, forgerie, perjurie, &c. *Lam. ibid.*

## Champertie.

Champertie is when one for hope of having part of the thing in variance, moveth, or causeth the suit to be moved at his owne cost, and for it hee is to be fined. 33. E. 1. *Lam. 441.*

Chancemedly, *vide Homicide.*

Chastisement, *vide Correction.*

## Church and Churchyard.

Maliciously to strike with a weapon in the Churchyard, or to draw a weapon to that end, is losse of one of his eares, or to be marked with the letter F. 5. Ed. 6. 4. *Lam. 419.*

To keep Faire or Market in the Churchyard. *ibid. Stat. Wilt. 13. Ed. 1. 6. Lam. 419.*

Conviction of any upon the statute 5. Ed. 6. cap. 4. may be by the Justices of Peace at their Quarter Sessions, by verdict, testimony of two, or by confession. 5. Ed. 6. 4.

Execution of the forfeiture upon the statute of striking in Churchyards, to be awarded by the Justice of Peace before the conviction. 5. Ed. 6. 4.

## Churchwardens.

Churchwardens and Constables, or one of them, or where none be, the Constable of the Hundred must once every yeere present at the Quarter Sessions the monethly absence from Church of Popish Recusants,

Recusants, and the names of every of their children of 9. yeers old and above, abiding with their parents, and as neere as they can the age of their children, and the names of such Recusants servants. 3. *Jac. 4. Lam. 437.* penalty 20. shill. *Vide Recusants.*

Churchwardens are to gather for, the prisoners. *vide Prisoners.*

Churchwardens and Overseers of the poore are yearly to make account to two Justices, whereof one ought to be of the Quorum, *viz.*

1 Of all summes received by them rated or not received.

2 Of such stock as they or any of their poore have in their hands.

3 What apprentices they have put out.

4 What poore they have set to work or relieved.

5 What poor they have suffered to wander & beg.

6 If they have monethly met to take order for the poore.

7 If they have assessed the inhabitants and occupiers of lands, &c. in their Parish, and such as are of abilitie with indifferencie.

8 If they have endeavoured to levie and gather such assessments. *Dal. 96.* Defaults in any the premises is 20. shill. *ibid.*

Churchwardens and Overseers refusing to make a true account to the Justice of all such sums of money, or denying to pay the arrerages, to be committed to the Goale without baile till account made, & the arrerages paid to the new Overseers. *Dal. 96.*

Churchwardens and Constables yearly upon Tuesday or Wednesday in Easter week, must call together the Parishoners,

And first choose surveyors for the high-waies, *Dal. 107 67.*

2 Appoint six dayes for that purpose, to be before Midsummer next following. *ibid.*

3 Give notice of the said six dayes openly in the Church the Sunday after Easter. *ibid.*

## Clerk of the Peace.

Clerk of the Peace must be present at the Sessions, to reade inditements, and inroll the acts of the Sessions, as also to draw Proces. *Lam. 393.*

Clerk of the Peace must record proclamations for the rates of servants wages, and inroll the discharge of apprentices. *5.El.4. ibid.*

He must keep the counterpain of the Indenture of armour. *4.& 5.P.& M.2.* Repeale by *1.Jac.25. circa finem.*

And the bookes of licences given to Badgers and Loaders of corne. *5.El.12.Lam.393.*

And of those that are licensed to shoot in gunnes. *2.Ed.6.14.*

He must certifie into the Kings Bench transcript of inditements, outlawries, attainders, and convictions had before the Justice of Peace within the time limited, under the pain of 40.shill. *34.H.8.14. Lamb. 588. & 593.*

Recognizance of the Peace is brought into the *Custos Rotulorum*, and the partie grieved will not sue it, the Clerk of the Peace may call upon it for the King. *Lam.394. 2.H.7.1.*

The office of the Clerk of the Peace is in the gift of the *Custos Rotulorum*. *37.H.8.1. Lam.394.*

What Records the Clerk of the Peace is bound to certifie, *vide Certificate.*

The Clerk of the Peace his fees, *vide Fees.*

He must record presentments for not comming to Church, and the certificate of not taking the oath  
of

of Allegiance. 3. Jac. 4. Lamb. 393.

Clerk of a Justice his fees, *vide* Fees.

Clerk of the Crowne, what records hee ought to certifie, *vide* Certificate.

## Clerk of the Market.

Clerk of the Market taking money to dispense with faults, riding with more than six horses, carrying longer than is necessary, loseth for the first offence 40. shillings, for the second 10. pound, for the third 20. pound. 13. R. 2. 4.

## Clergie and Sanctuarie.

One Justice of Peace may take out of the Sanctuarie him that is abjured thither, being indited of any offence punishable by death, done after he is become a Sanctuary man, and may commit him to the Goale in the County where the inditement is found, till he be tried. 22. H. 8. 14.

Breaking a house by day, and taking away any thing to the value of 5. shill. 39. El. 15. Lamb. 564, 565.

Conjurers or Witches, their aiders & counsellors. 5. El. 16. Lamb. 564. 1. Jac. 12. repealeth 5. El. 16.

### *In what offences Clergie is not allowable.*

Receivers or aiders of Seminarie Priests or Jesuits. 27. El. 2. Lamb. 563.

Conspiring to burne, take, or raze any Castle or Bulwarke of the Kings. 14. El. 1.

Rape or ravishment, } 18. El. 6. Lamb. 564.

Burglarie;

Carnally abusing a woman within the age of ten yeeres. 18. El. 6. Lamb. 564.

Principall or accessary before the fact of taking away of a maid, widow, or wife, that hath lands or substance,

40 **Clergie and Sanctuarie.**

Substance, &c. 3. H. 7. 2 & 39. El. 9. Lamb. *ibid.*

Buggerie. 5. El. 17.

Murderer.

Poysoner of malice prepenfed.

Robbing in day, or nigh a high-way.

Horse-stealer.

Church-robber.

Robbing of a house, any being in it.

Robbing of booth or tent, any being in it. *L. 365.*

Commander of Pettie-treason.

Commander of wilfull murder.

Of robbery in any dwelling-house, in or neere any high-way.

Stabbing one who hath no weapon drawne, nor stroke first, if hee die thereof within six moneths.

1. Jac. 8. *Lam. 565.*

To burn any barn having any corn in it. *Lam. 565.*

Reporting false rumours against the King, devising or writing seditious or slanderous matter against the King. 23. El. 2. *expir.*

Souldiers departing without licence of their captain. *Lam. 565.*

Souldiers or Mariners which wander begging. 39. El. 17.

Exceed the time of their licence. *ibid.*

Forge, or use forged licence, knowing it. *ibid.*

The second conviction for forging false deeds.

5. El. 14. *Lam. 566.*

Privily to take away goods or mony above 12. pen. from the person of another. 18. El. 4.

Calling himselfe an Egyptian, or keeping them company, contrary to the statutes. 1. & 2. Ph. & M. 4. 5. El. 20. *Lam. 566.*

A confined recusant refuseth to abjure the realm, or will not go, or returneth without licence. 35. El. 1. 2.

*To what persons Clergie is grantable,*

To a bastard.

To bigames.

*To whom not grantable.*

Women, vide Women.

One that hath had it formerly, except he be within holy orders. 1.E.6.12. Lam.563.

*In what cases Clergie is allowable.*

Clergie shall be allowed in all cases, saving such as are mentioned, 1.E.6.12. or speciall since that time taken away.

Clergie shall be allowed but once. 4.H.7.13.

A woman convicted of felonie above 12.pence, and under 10.shillings, wherein a man may have his clergie, shall be burnt in the hand with T. and whipped. 21.Jac.6.

Upon an attainder by outlawrie, Parliament, standing mute, challenging peremptorily above twenty, where the statute taketh it away upon conviction by verdict. Quere Lam.567.

A Justice of Peace may give clergie to a felon, if the Ordinarie be present; but they cannot fine the Ordinarie for his absence, but must reprieve the prisoner. Lam.551.

If the Enditement doth not directly agree with the words of the statute that taketh away clergie, the prisoner may have his clergie. Lam.566.

After conviction and clergie allowed, and the partie burnt in the hand, he may be indicted of another felonie. Lam.559. 18.El.6.

When any man hath priviledge of clergie, as a clerk convicted, and also in all cases of felonie wherein the

the benefit of clergie is restrained, excepted, or taken away by statute (wilfull murder and poysoning of malice prepensed, excepted) any Lord of the Parliament, or Peere of the Realme sitting in Parliament, shall upon his request and praier, alledging that he is a Lord or Peere of the Realme, though he cannot reade, without burning in the hand, losse of inheritance, or corruption of blood, be adjudged for the first time onely as a clerk convict. *1.Ed.6.12.* But in all other cases, wherein clergie is taken away by any statute since *1.Ed.6.* he is in the same degree as a common person. *P.R.2.13.*

## Cloth.

Every Iustice beyond Trent hath some power in searching out the deceit of straining or stretching those country clothes. *39.El.20.*

Any Justice of Peace next unto any Towne corporate or Citie beyond Trent, is to joyn with the City or Towne in appointing overseers for cloth. *ibid.*

Two Justices of Peace must appoint yeerly overseers of cloth sold in Townes not being corporate, and to sweare them to see execution of that part of the statute which is yet in force. *3.E.6.2. Lamb.322, 359.Dal.42.*

One commanded by two Justices of the Peace to appeare to be made an overseer of keeping the statute of clothing, and without reasonable excuse refusing, shall forfeit 40.shillings, one half to the two Justices. *Lam.369.*

Two Justices of Peace may dispose the mony rising of deceitfull cloth stretched. *39.El.20.*

Woollen cloth presented by a retailer thereof to two of the next Justices of Peace, as defective against this statute, and the statute *4.& 5.Ph.& Mar.c.5.* shall  
cause



cause the same to be cut into three equall parts, whereof one part to the King, one part to the presenter, and the third part to the Justices themselves. 5.E.6.6.Lam.359.

Justices of Peace faulty in executing the statute against the deceitfull stretching of Northern cloth, lose 5. pound. 39.El.20.

Clothier must set his seale of lead to the cloth, to declare the length, to be tryed by water, or be fined. 3.Ed.6.2.Lam.469.

Cloth is not to be stretched above a yard and a halfe in length, and halfe a quarter in breadth, nor to shrink more in wetting, on pain of 40.shill. *ibid.*

Brownes, Blewes, Pewks, Tawnies, and Violets, must be perfectly boiled, grained, or maddered upon the woad, and shot with good cork or orchall, otherwise the dyer loseth 20.shillings for every offence. 3.Ed.6.2.Lam.469.

Wooll for Russets, Marbles, Grayes, Bayes, or for hats or caps, must be perfectly woaded, boiled, and maddered, or lose 20.shillings every cloth or wooll for a cloth. *ibid.*

Dying with Brazill, thereby to make a false colour, is losse of 20.shill.a time. 3.E.6.2.Lam.443,469.

Putting flaxe, chalke, starch, or other deceivable things upon any cloth, except Devonshire & Cornwall straits, loseth 40.shill.a time.

Selling cloth by lesse measure than after the true contents by the yard and inch, loseth 6.shill.8.pence a yard. *ibid.*

Putting to sale cloth pressed to be used in England, Wales, or Ireland, loseth the cloth or value. *ibid.*

Refusing to be searchers of cloth, or neglecting to search once a quarter, loseth as the offenders. *ibid.*

Interrupting

Interruption of the search of cloth, is losse of twenty pound. *ibid.*

Kentish cloth above six pound price, must contain betwixt 28. and 30. yards in length being wet, and 7. quarters broad within the lists, and being well dressed, must weigh 76. pound, or lose 20. shillings for want of length and breadth, and so much for wanting of 4. pound of the weight. 5. *Ed. 6. 6. Lam. 470.* See now 4. *Jac. 2.*

Deceit in linnen cloth, whereby it is become worse for good use, is losse of cloth, fine, and imprisonment for a moneth. 1. *El. 12. Lam 471.*

Offences against the statute, concerning the stretching of Northerne clothes, to be presented by the Overseers at the next Quarter Sessions after the offence, and there to be heard and determined. 39. *El. 20.*

Offences of the Justices of Peace in neglecting their duty, by not executing of the statute of deceitfull stretching of Northern clothes, to be heard and determined by Just. of Assise.

### Commission of the Peace.

The commission of the Peace is determinable at the Pr. pleasure, either by expresse word, implication, or death, or by the presence of higher power, or by occasion of another office, as to be made Sheriffe. *Lam. 66, 67, 68. &c.*

Commission granted *hac vice tantum*, is determined after once sitting, if they doe not adjourne the same. *Lam. 67, 71.*

A new commission of the Peace *hac vice tantum*, will determine the old. *Lam. 68.*

A commission of the same kind in the same limits to other commissioners without word of discharge,

## Commission of the Peace. 45.

charge, is a revocation of the former by implication.  
*Cro. 189. a. Lam. 67.*

A proper Justice is made within a speciall liberty, without words of prohibition, the Justice of the shire may meddle there. *Lam. 68, 69.*

The making of a new commission is no determination of the old, till it be read or proclaimed at some Session, or in a full Countie, *Lamb. 71.* or at the Assises. *Dal. 11. Lam. 69.*

The old commission determining by a new, no proceffe or suit hanging before the old commissioners, is discontinued thereby. *Lamb. 66, 71. Dal. 12. Cro. 189. Lam. 69.*

Accession of a higher title taketh not away the authoritie of a Justice of Peace. *Dalt. 9. Crom. 188. 2. Lamb. 76.*

A new commission to heare and determine felonies, determineth the old commission of the Peace, but not concerning the Peace. *Lam. 72.*

A Justice of Peace, in making justification by verue of his office, needeth not to shew the commission of the Peace, because the keeping thereof belongeth to the *Custos Rotulorum.* *Lam. 387, 388.*

## Commons.

Commons in forrests and elsewhere, must be driven yeerly within 15. dayes after Michaelmas by the owner or officers, on paine of 40. shillings a time. *32. H. 8. 13. Lam 483.*

*Vide plus Horses.*

## Common Praier.

If any Minister have refused to use the Common Praier, or to minister the Sacraments according to the Booke of Common Praier, or wilfully standing  
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in the same, have used any other forme in open prayer, or in administration of the Sacraments, or spoken any thing in derogation of the said book, or any part thereof, for the first offence it is losse of the spirituall living for a yeer, and imprisonment for 6. months without baile: for the second, deprivation and imprisonment for a yeere: for the third, deprivation and imprisonment all his life. 1. *El. cap. 2. 23. El. 1. Lam. 4 17.*

Any having in play, song, or rhythm, or by any open word spoken in derogation of the Booke of Common Praier, or any thing therein contained, or having caused or maintained any Minister to say any other Common Praier, or minister Sacraments in other manner, or interrupting any Minister to say open prayer, or administer the Sacraments according to the said Booke, he loseth 100. Markes, or six moneths imprisonment without baile for the first offence: and for the second, 400. Markes, or 12. months imprisonment: and for the third, all his goods, and imprisonment for his life. *ibid.*

Concealment, *vide* Jurours.

### Confession.

After a free confession of an indictment, and submission to fine in an action at the parties suit, for the same trespassse, he shall not plead not guilty: otherwise of a confession *sub modo*, as when hee putteth himselfe *sub gratia Regis. Lam. 5 30.*

Quære whether if he once make a fine, hee shall not be estopped to plead not guilty also.

Whether the Just. of Peace may drive the party either to an absolute confession, or to his traverse. *ibid.*

The voluntary confession of an offender against the statute 1. *Jac. 9. 4. Jac. 5.* before a Justice of Peace

is

## Conjuration.

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is a conviction, and after confession his oath is sufficient prooffe against any other offending at the same time. 21. *Jac. 7. Dal. 26.*

## Conjuration.

Conjuration of wicked spirits is felonie. 5. *El. 16. Lam. 227. Vide plus Witchcraft. 1. Jac. c. 12.*

## Conservers of the Peace.

Coroners are conservers of the Peace, and may in some cases imprison. *Lam. 395.*

## Constables.

Every Constable at the Common law before the statute 3. *Hen. 7. 3. & 1. & 2. Ph. & Mar. 13.* might baile one suspected of felonie by obligation, or take suretie of the Peace by obligation, or commit him to prison that made an affray, till hee found sureties. *Lam. 15.*

Constables or other Officers may lay no hands on two intending to fight, till weapons drawne, or offer of blow. *Lam. 132.*

Constable hurt in parting an affray, may have an action against the affrayer; so may any other officer: but the affrayer can have none against them. *Lam. 132, 133.*

Constable or Officer presented at the Sessions for not endeavouring to part an affray, being present, shall deeply be fined. *Lam. 133.*

So if he be told of it being absent. *Dal. 33. & quere con'rà, Cro. 146. b.*

Two fighting in an house the doores being shut, the Officers may breake open the doores to see the peace kept. *Lam. ibid. Lam. 133.*

Constable taking an affrayer must imprison him  
in

in the stockes, not in his house; and that till he may provide to carry him to the Goale, *Lam. ibid.* or to a Justice of Peace. *Dal. 28. & 30. Lam. 125, 133.*

Constable or Justice, if need be, may command aid of the Kings people for pacifying an affray. *Lā. 134.*

Constable or Officer may defend himselfe, and apprehend and imprison the party that shall make an affray upon him. *Lam. ibid. Dal. 35. Crom. 147. a.*

One Justice of Peace may command that two Constables be chosen in each Hundred. *Lam. 186.*

*Vide plus* Affray, Arrest, Rogues.

High-constables at their petty Sessions, for an affray made in disturbance of the Court, may imprison the offenders. *Dal. 3. edit. 1626. Cook II, 43, 44.*

Choosing of High-constables useth to be at the Quarter Sessions; if out of Sessions, by the major part of the Justices of that division where they dwell, and use to be sworn at the Sessions, or by warrant from the Sessions. *Dal. 46.*

### Conventicles.

Those are sometimes called conventicles, wherein many doe impart with others their meaning to kill a man, or to take anothers part in all things. *Lamb. 173, 177.*

Champertie also, maintenance, conspiracies, confederacies, and giving of liveries, other than to meniall servants and officers, be contained under the word Conventicles. *Lam. ibid.*

Conies, *vide* Hunting.

### Corne.

Certificate of one Justice of Peace, joyned with the Customer of the place of unlading and selling of corne, graine, or cattell carri'd by water from one place

place to another of this Realme, unto the Customer and Controller of the place where the same was imbarked, is sufficient upon the statute of forestalling. 5.Ed.6.14. 13.El.25.

One having sufficient corne, buying seed, without bringing so much as he buyeth, to sell the same day as the Market goeth, loseth double. 5.Ed.6.14. Lam.451.

*Vide plus* Transportation.

Cutter and carriers away of corne, *vide* Hedge-breakers.

## Coroners.

Coroners ought to certifie their inquisitions at the generall Goal-delivery, and not at the Sessions. 1.& 2.Ph.& Mar.13. Lam.395.

Coroners being parties to the exigents, and Judges of the outlawrie, ought to be present at the Sessions. *ibid.*

Coroners are conservers of the Peace, and may in some cases commit men to prison. *ibid.*

Coroners may be convicted of offence against the statute of 1.H.8.7. Lam.434. touching extortion, or not executing their offices, before a Justice of Peace. Cro.130.b.

Coroners fees, *vide* Fees.

## Cottages.

Any erecting, or converting any dwelling to be used as a cottage for dwelling, unlesse hee lay foure acres of his owne free-hold inheritance lying neere to the said cottage, to be continually manured therewithall so long as that cottage shall be inhabited, except in a Citie, corporate or market Town, or ancient Borough, or being the dwelling house

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of minerals, coal-mines, quarries of stone or slate, makers of brick, tile, lime, or coale, not being above a mile from the workes, and only used for the habitation of such workmen, or for sailers, or men of manuell occupation, for the making, furnishing, or victualling of ships, and being within a mile of the sea at the side of some navigable river; or a cottage for the keeper of forrests, chace, warren, or parke; or cottage for a common herdsman or shepherd of any towne, or wherein any poore, lame, sicke, aged, or impotent person shall dwell; or hath been decreed to continue for a dwelling by the Justices of Assise, or of the Peace in open Assises or Quarter Sessions. 31.El.7. 39.El.3. 43.El.2. Lam. 456, 476, 499. 35.El.6.

None to maintaine or uphold any cottage, not having foure acres to it, except as before. *ibid.*

Owner or occupier of a cottage must not suffer more households than one to dwell in a cottage. 31.El.7. except it be by order of the Justice at the Quarter Sessions, with leave of the Lord of the waste, at the charge of the Parish, Hundred, or Countie. 35.El.3. 43.El.2. Lam. 611. Offences against the statute of cottages and inmates, are to be heard and determined at the Quarter Sessions. 31.El.7. Lam. 614. and a decree may be made at the Quarter Sessions for continuance of a cottage that hath not foure acres of land. *ibid.*

## Countie.

A Justice of Peace in one Countie, pursuing a felon into another Countie where he is taken, he shall be committed to the Goale of the Countie where he was taken.

## Cozeners



Any falsly and deceitfully getting in possession money or goods of other mens, in colour of false privie tokens, or counterfeit letters, and convicted thereof at Quarter Sessions by examination of witnesses, shall suffer any corporall punishment except death. 33.H.8.1.Lam.535.Cro.83.a.130.b.Dal.48.

Two Justices of Peace, one being of the Quorum, may bind over to the next Sessions any such suspected person, or may imprison or baile them, untill the next generall Sessions. Dal.48. One Justice of Peace (as it seemeth) may bind threatners to their good behaviour, so to the Assises or Sessions, or send them to the house of Correction. Dal.48.Edit.1626.

Crosses, vide *Agnus Dei*.

### Crossebowes and Hand-guns.

Every person may attach an offender against the statute 33.H.8.6. and carry him to the next Justice of Peace in the same Countie. Dal.65.

The Justice upon due consideration may send the offender to the Goale, till he have paid the penalty of the statute of 33.H.8.6. *st. 10. h.*

### The particulars of the said Statute.

None under an 100.pounds *per annum* may shoot in, or keep gun, dag, pistoll, crossebow, or stonebow.

No person may shoot in, carry, keep, use, or have any gun under three quarters of a yard in length: if it be shorter, every one having an 100.pound *per annum* may seize the gun, and must breake it, or lose 40.shillings, if he breake it not within twenty dayes. Lam.296,480. but may keep the crossebow or stonebow. Dal.65.

No person not having an 100.pound *per annum*, may carry in his journey any gun charged, or bow bent,

## 52 Crossebowes and Hand-guns.

bent, but only in time and service of warre, or going to the musters.

None may shoot in a gun neer to a market Town, but in defence of his house or person, or at a Butt.

The master may not command the servant to shoot, except at a Butt or Bank of earth, or in warre.

### *Exceptions out of the Statute.*

1 Shooting at a Butt or Bank of earth by serving-men, whose masters are inabled by statute.

2 Inhabitants of market townes.

3 Dwellers alone, or neere the sea-side.

4 Gunmakers or gunsellers.

5 Those that have placards may shoot according to their placards. *Dal. 65, 66.*

Any under the value of 100 pound *per annum*, licensed to shoot in Crossebow or Hand-gun, is to present his name to the next Justice, by him to be presented and recorded at the next Quarter Sessions, or else the Justice to lose 20. shill. *2. Ed. 6. 14. Lam. 296.*  
*Quære if this be now in use.*

Any licensed at Quarter Sessions to shoot in hand-gun or birding-piece for Hawks meat, is to shoot only at fowle not prohibited, and to be bound in 20. li. *1. Jac. 27.*

Any two Justices of Peace may commit to the Goale for 3. moneths any that shoot with gun or bow at any Partridge, Pheasant, house-Dove, Mallard, or at such fowle, or at any Hare. *1. Jac. 27.*

Currier, *vide* Leather.

Customer, *vide* Corne.

## Custos Rotulorum.

*Custos Rotulorum* hath the custodie of the Records  
and

and of the Commission, and ought to see that they be brought to the Sessions. *Lam.* 387, 389.

*Custos Rotulorum* is alwaies a Justice of Quorum. *Lam.* 387.

*Custos Rotulorum* alone cannot summon a Sessions, seeing that he hath no more authority in that behalf than any of his fellowes hath. *Lam.* 382.

## Cutpurse.

Taking of the goods of another to the value of 12. pence from his person into his owne possession, without assault or feare, is felony without clergie. *8. El. 4. Lam.* 267, 270, 271. *Dal.* 258.

But it will not amount to felonie unto death, unlesse the thing taken be of the value of 12. pence. *Lam.* 270. *Dal.* Quere.

The thiefe must have an actuall possession of the thing severed from the person of the owner. *Lam.* 271. *Dal.* 258. *Cro.* 35. a.

## Cutting out of tongues.

Cutting out of tongues, and putting out of eyes, is felony, if it be done of set purpose. *5. H. 4. 5. La.* 420.

## Cutting of a Pond head.

Destroying of the head or damme of any pond, moat, sluice, or severall pit wherein fishes are put by the owner thereof, or have wrongfully fished in any of the same, to the intent to take away the fish against the owners will. *5. El. 21. Lam.* 446. See 3. *Jac.* cap. 13.

## Deere and Deere-hayes.

Justice of Peace may not receive an indictment for killing a Hart proclaimed, for the jurisdiction of it belongeth to the Justice of the forrest. 21.H.7.30. *Lam. 505.*

One convicted of unlawfull taking or killing of Deere, must pay treble damages to the partie, three moneths imprisonment, and after to remaine there till he put in sureties for the good behaviour for seven yeeres. 5.El.21.3. *Fac. 13. Lam. 571.*

To sell, or buy to sell any Deere, Hare, Partridge, or Pheasant, except house Partridge or Pheasant, or brought from beyond the seas, loseth for every Deere 40.shillings, every Hare or Partridge 10.shillings, and every Pheasant 20.shill. 1. *Fac. 27.*

*Vide plus Hunting and Buckstalls.*

## Demurrer.

One indicted demurreth upon the evidences, the Justices ought to record it. *Lam. 589.*

## Deputie.

A Judge cannot make a Deputie. *Lamb. 64.*

## Divine Service.

Any above the age of 16.yeeres, that repaireth not to his Parish Church or Chappell accustomed, or to some usuall place where Common Praier is to be used upon every Sunday and other Holy-daies, and hath not there orderly and soberly abiden during the time of such Common Praier, Preaching, or other service of God, loseth 12.pen. for every offence,

to be levied by the Churchwardens to the use of the poore of the said Parish, and to be punished by the censures of the Church. 1. *El.* 2.

It is lawfull for one Justice of Peace in the limit, division, or libertie where the offender dwelleth, in not comming to Church, 1. *El.* 2. upon prooffe of default, by confession of the party or oath of witnessse, to call the party before him; and for want of sufficient excuse and prooffe thereof to the satisfaction of the said Justice, the said Justice may give his warrant to the Churchwarden of the said Parish under his hand and seale to levie. 12. pen. for every default by distresse, in default thereof to commit the offender to prison till payment made. 3. *Jac.* 4.

*Vide plus* Recusants and Sunday.

Dogge, *vide* Hunting.

*Vide* Partridges and Pheasants.

Drivers of commons, *vide* Commons.

Drovers, *vide* Badgers.

Dyer, *vide* Cloth.

### Drunkennesse.

Any Justice of Peace, upon his owne view, confession of the party, or prooffe of one witness upon oath, hath power to convince any person of drunkennesse. 21. *Jac.* 7.

Any within six moneths after the offence committed, lawfully convicted of drunkennesse, loseth 5. shillings, to be paid after conviction to the Churchwardens of the Parish where the offence shall be committed; and refusing and neglecting to pay the same, to be by warrant from the Justice convicting levied on his goods; if he be unable, to be set into the stocks six houres, and upon conviction of the second offence to be bound with sureties in ten

pound to his good behaviour. 4.*Jac.*5.

The officer charged is negligent in levying or in correcting, hee loseth 10.shillings, to be levied and disposed as the penalty it selfe. 4.*Jac.*5.

Churchwardens to be accountable to the use of the poore for the penalties by them received upon the statute of drunkennesse. *ibid.*

Constables, Churchwardens, and Tithingmen, in their oaths for their office are to sweare to present offences against the statute of drunkennesse. 4.*Jac.*5.

Offences against the statute of drunkennesse to be inquired after and presented before the Justice of Assise, or Justice of Peace at their Sessions, and proceeded upon ordinary indictment. *ibid.*

Offenders against the statute of drunkennesse not to be twice punished for the same offence. *ibid.*

### Ecclesiasticall causes and persons.

**E**cclesiasticall persons subject to arrest for the Peace, but when they bee attendant on divine Service. *Lam.*93. *Dal.*162.

*Vide plus* Treason.

Egges of any wild fowle usually eaten, taken from the place where they were layed, or destroyed betwixt the first of March, and the last of June, one yeeres imprisonment, and lose after a rate for each egge. 25.*H.*8 11. 3.*E.*6.7. *Lam.*453.

To take away the egges of any Hawke out of the woods or ground of any other person, three moneths imprisonment, and bound to his good behaviour for seven yeeres. 5.*El.*21. *Lam.*446.

To take or cause to bee taken upon his owne or  
other

## Egges of wild fowle.

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other mens grounds the egges of any Falcon, Goshawke, Lanner, or Swan, one yeere and a daies imprisonment and fine. 11.H.7.17. *Lam. ibid.*

Taker or willing destroyer of egges of Partridge, Pheasant, or Swan, upon conviction by confession or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three moneths, unlesse hee pay to the Churchwardens of the Parish in one of the places to the use of the poore 20. shill. 1. *Jac. 27.*

*Vide plus* Partridges, Pheasants, and Fowlers.

## Egyptians.

One Justice of Peace may within one moneth after the arrivall seize all the goods of any outlandish persons, calling themselves Egyptians, that shall come into the Realme, or company with them, or disguise themselves like them, and keep to his owne use the one moytie, accounting in the Exchequer for the other, restoring to them againe their goods, that prove by two witnesses that they were craftily or feloniously stolne from them, upon paine of forfeiture of double the value to the prover. 22.H.8.10. *Dal. 49. Lam. 195, 228, 371, 427.*

After the moneth it is felony, and then they shall have the whole. 1. & 2. *Ph. & Mar. 4.* Quære whether the stat. 22.H.8. be still in force or altered by the statute of 1. & 2. *Ph. & Mar.*

Embezeling of records, *vide* Records.

Embracer, *vide* Maintainer.

## Enditements.

Endirement is the verdict of jurors that bee charged

charged to enquire of that offence that is presented by them. *Lam. 486.*

All Enditements ought to containe certainty, and therefore five principall things be requisite in presentments. *Lam. 487.*

1 The name, surname, and addition of the partie endited.

2 The yeere, the day, and place in which the offence was done.

3 The name of the person to whom the offence was done.

4 The name and value of the thing in which the offence was committed.

5 The manner of the fact, and the nature of the offence; as the manner of the treason, murder, felonie, or trespassse. *Lam 487.*

Enditement of the accessory to felony, must containe the name of the principall. *Lam. 488.*

Misnamer in an Enditement shall not bee made good by an *aliàs dictus*. *Lam. 490.*

Where the name of the party offended cannot be knowne, it may be *cujusdam ignoti*, because of the Kings advantage thereby by forfeiture. *Lam. 494.*

Any certainty whereby the day and yeere may be knowne is sufficient. *Lam. 491.*

An offence done before midnight must bee supposed the day before; if after, then the day after. *Lamb. 492.*

One striketh one day, whereon hee languisheth, and dieth on another; the Enditement must suppose the last day, on which he died. *Lam. 491.*

Enditement supposing the fact done a day not come, is not good. *Lam. 492.*

Enditement or Presentment for an omission, as *pl. hath not scoured* such a sewer, needs not to set downe



downe day nor yeere. *Lamb. 492.*

Enditement supposing an offence done at two severall times, not good. *Lam. 492.*

### *Certainty of the place.*

If no place be named where the offence was done, or a place be named, whereas in truth there is no such place, the Enditement is void. *9.H. 5. 1. 18. Hen. 6. 12. Lam. 493.*

If the stroke or poysoning be in one county, and the death in another county, the Enditement in the county where the death is shall be good. *2. & 3. Ed. 6. 24. Lam. 493.*

Certainty of the person to whom the offence is done. *Lam. 494.*

The goods of a Parson of a Church, *Bona Rectoris.*

The goods of the Church, *Bona Parochianorum in custodia Gardianorum.*

The goods of Maior and Commonalty, and the Maior dieth before the Enditement, *bona Communitatis*: *Quere*, because they have no such name of corporation.

Goods taken in a mans life time, and he maketh executor and dieth, *bona Testatoris.*

Goods taken after his death, *Testatoris in custodia Executorum.*

Goods hanging over a Tomb, *Executoris*. A Grave-stone, *bona Ecclesie.*

My goods are taken by a trespasser, and taken from him againe, the Enditement shall be *bona* of him that had the last possession. *Lam. 496.*

Of the owner in the keeping of the baile, where they were taken from the Bailly. *Lam. 496.*

*Bona Capelle in custodia*, or *bona domus*, or *Ecclesie tempore vacationis*, is good. *Lam. ibid.*

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The name of the thing must be comprised. *Lã. ibid.*  
*Bona & Catalla* in trespassse or felony is not good.

If dead things, it may be *bona & catalla*, expressing the names thereof in certainty.

If living things, it shall not say, *bona & catalla*, but *equum, bovem, ovem, &c. ibid.*

The value is to be declared in felony to make it appear petty larceny; in trespasss to aggravate the fault.

Enditement of things *feræ naturæ*, as Deere, Hares, Partridges, or Pheasants, is not good, unlesse they be taken in a parke or a warren that be liberties. *Lam.*

469, 497.

Charters, their value cannot be esteemed. *ibid.*

It must be said, *Pretii.*

Of live things. *Lam. 497.*

Of dead things in the singular number. *ibid.*

Of things that go by weight & measure. *Lã. 497.*

Of coine not currant, *ibid.*

It must be said *ad valentiam* of dead things in the plurall number, not going by weight and measure.

*Lam. 497.*

Coine counterfeited.

Where the number ought to be expressed, as of the taking of Doves in a dove-house, or young Hawkes in a wood, there it must be *pretii* or *ad valentiam.*

*Lam. 497.*

Coine currant carrieth his value with it. *ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned. *Lam. 498.*

to be noted.

### *Nature of the offence.*

Treason must have *Proditoric.*

Murder *Murdravit*, which implieth *ex malitia pre-cogitata.* *Lam. 500.*

Burglary, *Burglariter.*

Felony,

Felony, *felonice*, *ibid.* so petty larceny, *felonice rapuit*. *Lam.* 501.

*Furatus* seemeth good without *felonice*.

In felony, *cepit* alone, or *abduxit*, or *asportavit*. *Lam.* 501.

In trespassse or felony, the words *contra pacem* must be used. *Lam.* 502.

In forcible entrie, *vi & armis*, be needlesse. *ibid.*

Upon a statute, *contra formam statuti in huiusmodi casu editi & provis.* *ibid.*

Where many statutes concerne one offence *contra formam diversorum statutorum*,

Where after an acquittall one shall be endited for the same felonie.

Where the first Enditement was void for insufficiency of matter of felony. *Lam.* 556.

Tryall in a wrong County. *ibid.*

Misprision of the partie that should bring the action.

Where the first Enditement was as principall, the second Enditement as accessory to the same felony after the fact. *Lam.* 557.

*Where he shall not be againe endited.*

Where the Enditement was good.

Though it were by another name, if he be knowne by both. *Lam.* 555.

Though it suppose the same felony done in another yeere. *Lam.* 556.

Though the Proces was erroneous. *ibid.*

Enditement taken at the Sheriffes Turn lawfully taken, must be taken by the Justice, and by them received. *1.E.4.2. Lam.* 504.

No Enditement can be taken, nor enquirie made  
but

but before two Justices, one to be of the Quorum,  
*Lam. 48.*

Enditement upon penall statute, whereof the King is onely to reap the forfeiture, must be within two yeeres after the offence.

And where a common person is, it must be within one yeere, except the statute doe otherwise direct.  
*Lamb. 487.*

## Enquirie.

Justices of Peace may only enquire, and can proceed no further, as in

1 Certain offences against the supremacie. 23. *El. 1*

2 Treasons, and misprisions of treason, made by the 23 *El. 1.*

3 Offences against the statute of false rumours against the King. 23. *El. 1.*

Enquirie of a forcible entrie, *vide* Forcible entrie.

Enquirie by presentment, *vide* Presentment.

Enquirie by examination, *vide* Examination.

Enquirie by information, *vide* Information.

## Escapes.

Constable arresteth one that hath hurt another, and voluntarily suffereth him to escape, and he that was hurt dieth thereof within a yeere and a day, the Constable shall make a fine to the value of his goods, but it is no felonie. *Lam. 134.*

To suffer a felon wilfully to escape, is felonie; but a negligent escape, onely to be fined. 1. *R. 3. 13. Lam. 440.*

Wilfull escape of one arrested for larcenie, manslaughter *per infortunium*, & *se defendendo*, is not felonie.

lonie. *Dal. 275. Cro. 39. a.* if the act were not felonie at the time of the escape. *Lam. 230.*

Wilfull escape by the goaler or keeper of a felon, is felonie in the goaler, not in the felon: if the escape be caused by a stranger, it is felonie. *Lam. 231.*

Escape suffered by him that receiveth a knowne felon, is no felonie. *Lam. 230, 234.*

*Vide plus Prisoners.*

To suffer one to escape that is arrested for an act which was not then felonie, but by matter consequent fell out so to be, is no felonie, *Lam. 230.* but is fineable. *Dal. 275. Cro. 39. a. Lam. 230.*

A prisoner under arrest only escaping, the escape must first be presented before hee that suffered the escape shall answer it. *Dal. 275.*

A Justice sendeth for a felon out of the goale; and freeth him without baile; it is felonie in the Justice. *Dal. ibid. Cro. 39. b.*

A Justice *pro defectu scientie* baileth one not bailable, it is but a negligent escape. *Dal. 276. Cro. 39. b.*

Offender upon his examination before a Justice confesseth the felonie, who letteth him goe without commitment or baile; it is a voluntary escape, and so felonie in the Justice. *Dal. 276. Cro. 39. a.*

A Towne not walled must answer the escape of a manslayer in the day time. *Dal. 291. Cro. 40. b.*

The Hundred must answer for a man slain out of the Towne, and for insufficiencie the Countie shall be charged. *Dal. ibid.*

Göaler or other Officer suffereth his prisoner to go abroad for a time, though the prisoner returns as he was prescribed, or let his prisoner goe by baile or baston; it is a negligent escape, and fineable: but quære, for prisoners ought to be kept *in salva et certa custodia*. *Dal. 273.*

Voluntario

Voluntarie escape of one arrested or committed for felony, is felony in the Goaler; if for treason, it is treason; if for trespassse, it is trespassse. *Dal.* 274.

A thiefe being in the custodie of the Constable, doth suddenly hang, drowne, or kill himselfe; it is a negligent escape. *Dal.* 272.

## Escheators.

Escheator, other than those of a City or Borough, that takes upon him the office, not having lands in the Shire of 20. pounds *per annum*, or for life at least, 12.E.4.9. or that hath sold or set to farme the office to one for whom he will not answer, and whose name he doth not certifie within 20. dayes into the Exchequer, shall be fined 40. pound. 33.H.8.22. *Lam.* 429.

Escheator taking for execution of any writ in any County above 40. shillings, or 40. shillings where the land is not held *in capite*, shall be fined 40. pound. 23.H.6.17. *Lam.* 430.

Escheator taking above 15. shillings for finding out an office not exceeding 5. pounds a yeere, loseth 40. pounds. 33.H.8.22. *Lam.* 430.

## Evesdroppers.

Evesdroppers which shall by night evesdrop mens houses, are to be bound to the good behaviour. *Dalton* 189.

## Evidences.

Justice of the Peace must bind over informers for felony to appeare and give evidence against the felon at the next generall Goal-delivery. *Dal.* 49.

Justice of Peace must bind such as declare any thing materiall to prove the felony, to appeare at the next Goal-delivery, and give evidence. *Dal.* 390.

Examination

Examination taken by a Just. of Peace in one countie, may be certified into another countie, and there read, and given in evidence. *Dal.* 295.

Estreats.

Estreats are the extracts of fines, forfeitures, and amerciaments made by the Clerk of the Peace by indentures, the one delivered to the Sheriffe, the other to the Barons of the Exchequer. *Lam.* 581.

Estreats of the penaltie for shooting in gunnes, are to be recorded and sent into the Exchequer by the Justice that had the examination of the matter. *Lam.* 295, 297.

Sheriffe or his minister that shall levie any of the Kings debts, without shewing the party the estreats under the Exchequer scale, shall be fined & pay treble damages to the party. 42.E.3.9.7.H.4.3. *Lam.* 432.

Hee that estreateth issues of others than were chargeable or charged, loseth 5. Marks to the King, & 39.El.18. as much to the party. 27.El.7. *Lam.* 432.

Examination.

Felon brought before a Justice, must be examined before he be committed to prison, and the information of those that bring him must be put in writing within two dayes after, and the party bound to appeare and give evidence at the next Goal-deliverie. 2. & 3. Ph. & Mar. 10. *Lam.* 212.

Before the statute, the examination of a felon was not warranted at the Common law; for *nemo tenetur prodere seipsum.* 213. but the offender shall not be examined upon oath. *Dal.* 299.

Circumstances observable in examination of a felon. *Lam.* 213. *Dal.* 295. *Lam.* 218.

t In what offences conviction shall be by examination, *vide* the severall offences.

Conviction cannot be by examination onely, but where the statute giveth it, either by referring it to the discretion of the Justices, or specially limiting it. *Lam.* 534.

Where the statute limiteth conviction to bee by examination generall, a Justice of Peace may examine as well the offenders as witnesses. *Lam.* 535.

Where the examination of a Justice of Peace is the conviction of the partie, it ought to bee upon oath: but when it is but to informe the Jury upon that enditement, it needs not. *ibid.* *Lam.* 536.

Examination of witnesses is to be taken as well against as for the King, *Dal.* 300. but quare whether it may be upon oath, which maketh against the King.

Confession of an offender before a Justice of Peace is not conviction, except he confesse the same again upon his tryall or arraignment. *Dal.* 303.

Extolling forrain power, *vide* Treason.

### Extortion.

Ordinary, Archdeacon, Official, Sheriffe, Escheator, Coroner, Under-Sheriffe, Bailiffe, Goaler, or other Officer, that by colour of his office taketh more than his fee, or any fee or reward for expedition, or unlawfully exacteth any oath or other undue thing. *Lam.* 434. &c.

Any thing taken *colore officii* is extortion; but *virtute officii* is allowable. *Cro.* 57.b.

The Sheriffe or Goaler taking any thing of a Constable for bringing a felon to the Goale, it is extortion. 4.E. 3. 10. *Cro.* 57.b.

If the Ordinary or his minister take any thing to allow a Schoolmaster to teach children. 23.El. 1. *Cro.* 58.a.

The



The Marshall detaining a prisoner after he is discharged by the Court, for any thing due to him but his fees. *Cro. ibid.*

The Ordinary citing a lay person to appeare in the Spirituall Court, to depose there as a witness. *Cro. 59.b.*

*Vide plus Fees.*

A man prescribeth to have 4.pence of every one whose beasts are taken in his ground, damage fesant being impounded, and to make amends to him at his will, it is extortion if he take it. *Cro. 58.b.*

To take any thing for a mortuarie, contrary to the statute, 21. *Hen. 8.6.* where the goods come not to twenty Nobles besides debts, or for married woman or infant, or one that keeps no house, or wayfaring man, or any that is not resident where hee died, is extortion. *Cro. 59.a.*

## Faires and Markets.

**H**E that keepeth a Faire or Market in a Churchyard, shall be fined. *Stat. Wint. 13.E. 1.6. Lam. 419.*  
 False imprisonment, *vide Arrest.*  
 False takers, *vide Cozeners.*

## Fees.

The Sheriffe shall have upon arrest by Bill, Writ, or Warrant, 20.pence, the Bailiffe that maketh the arrest, 4.pence; the Goaler, if hee bee committed, 4.pence; and for the obligation 4.pence, & no more, on pain of 40.pound. 23. *H. 6. 1.c. Cro. 58.b. 176.b.*

Bailiffes of liberties are to have like fees as the Sheriffes and their ministers have out of liberties,

and like punishment for extortion. 27.H.8.7. *Lamb.*  
434. *Crosbid.*

### *Clerk of the Peace to be fined.*

For taking above 12.pence for inrolling a bargain and sale of lands not exceeding 40.shill.a yeere, or 2.shill.6.pence if it do exceed 40.shill.a yeer. 27.Hen. 8.16. and the Justice of Peace the like for taking above the said summes in the said cases. *Cro.* 59.a. *Lam.* 436.

For taking above 12.pence for recognizance of one that taketh a rogue into his service for a yeere. 14.El.5. *ibid.*

For taking above 2.shillings for a licence and recognizance of a Badger, Drover, Lader, or Kidder, & registering the licence of them both. 5.El.12. *ibid.*

For taking above 12.pence for a licence and recognizance to shoot Hawks meat. 1.Jac.27.

Clerke of a Justice of Peace to be fined for taking above 12.pence for a recognizance of an Alehouse-keeper. 5.E.6.25. *Lam.* 436.

Coroner refusing to doe his office of one slain by misadventure without fees, loseth 40.shill. 1.H.8.7. *Lam.* 434.

Coroner taking above 13.shillings 4.pence for doing his office of one slain and murdered, of the goods of the slayer and murderer; if he have none, of the towne where he was slain in the day, and was suffered to escape. 3.H.7.1. *Lam. ibid.*

### *Maiores to have for sealing.*

Busshels and other measures, a peny.

Weights, viz. a hundred weight, 1.peny; half a hundred, a halfe peny; lesse, a farthing; and taking above, they lose 40.shill. 7.H.7.4. 11.H.7.4. *Lam.* 437.

Parson,

Parson, Vicar, or Curate taking above 4.pence for entring into the Church-book licence to eat flesh on fish-daies. 5.El. 5.

Or above 2.pence for registering a Testimoniall of any servant going from one place to another. 5.El. 4. Lam. 435.

Ordinary or his scribe or register, that hath taken more for the probate of a testament or letters of administration than 6.pence for the scribe for writing the probate of the testament that shall be brought written in parchment, and 6.pence for the administration where the goods be not above 5.pound; if above 5.pound, not above 40.pound, then 2.shillings 6.pence for the Ordinary, and 12.pence for the scribe; if above 40.pound, 2.shillings 6.pence for the Ordinary, and 2.shillings 6.pence for the scribe, or 1.peny for every 10.lines 10.inches in length at the scribes election; and the like for every copy of a testament or inventoric, or else after the rate of the lines as before, loseth 10.pound, and so much as is taken to the party. 21.H.8. 5.Cro. 61.a. Lam. 434.

Escheators fees, *vide* Escheators.

Receiver, Treasurer, or Minister of the King, that taketh of any that hath fee or pension of the King, other fee than is given by ancient laws and statutes, *viz.* 4.pence for payment of every pound, forfeiteth 6.shillings 8.pence. 33.H.8. 39. 7.E.6. 1. Cro. 58.a.

Taking above 4.pence for impounding one distresse, loseth 5.pound to the party grieved, besides such mony as he shall take above the summe of foure pence. 1.& 2.P.& M. 12. *ibid.*

### Felo de se.

A man that kills himselfe, either with a mediated hatred against his owne life, or out of distraction or

other humour, is *felo de se*, and forfeiteth his goods reall and personall Chattels to the King, and debts due upon specialtie, and also upon simple contract, or without specialtie. *Dal.* 236. *Coo.* 4.95.a.

An infant, or *non compos mentis* killing himselfe, doth not forfeit, but a lunaticke doth. *Dal.* *ibid.* *Lam.* 247.

All his goods shall be forfeited which he had at the time of the blow given, but not till his death be presented and found of record. *Dal.* *ibid.*

He forfeiteth no lands, nor is his blood corrupted. *Dal.* *ibid.*

The inquirie of *felo de se* belongeth to the Coroner: but if the Coroner cannot have sight of his bodie, as being cast into the sea, or secretly buried, the Justices of Peace may inquire thereof, and a presentment before them intituleth the King to his goods. *Dal.* *ibid.* *Cook* 5.110.b.

## Felonie.

Felonies are either } Common law,  
by the } Statute law.

By the Common law all kind of homicide not warranted, Burglarie; the Stat. burning of houses, rescous, and escapes. *Dal.* 272, 276.

*Vide* their severall titles.

## Felonies by statute.

The Kings sworn servant conspiring to destroy the King or any Lord of the Realm, or any sworne to the Kings Councill, or the Steward, Treasurer, or Controller of the Kings household. 3.H.7.14. *Dal.* 271.

Breaking of prison by one being therein for felonie, or a prisoner for felonie. 1.E.2. *de prisonam frangenti.* *Dal.* *ibid.*

And

And if he escape going to the Goale. *Cro.* 49. b.

If under arrest for felony or suspicion, whether in the Goale or out, it is breaking of prison. *1. E.* 3. 17. *Cro.* 38. a. *P. R.* 147.

A stranger breaketh the prison, or openeth the stockes, or makes rescous of one imprisoned or arrested for felony, who escapeth; it is felony in them both. *Dal.* 272. *Cro.* 38. *1. H.* 7. 6.

Quære, if a stranger disturb the arresting of a felon. *Dal. ibid.* 9. *H.* 4. 1. *Fitz. Just. P. fo.* 114.

Rescuing a Prisoner going to execution, is felony. *Dal. ibid.* 1. *H.* 7. 6. *Indictment* 30. *drv.* 7.

Goaler, Constable, or other, having a prisoner under arrest for felony, voluntarily suffereth him to escape, it is felony onely in him that suffereth the escape. *Dal. ibid.*

If the prisoner escape by negligence of his keeper, it is felony only in the prisoner. *Dal. ibid.*

Escape before arrest is no felony, but the Officer may be endited & fined. *Dal.* 272. *Lam.* 230. *Cro.* 39. a.

Buggery with mankind or beast.

Burning of houses or stacks of corne.

Congregations & confederacies holdē by Masons.

Cutting out of tongues, or putting out eyes.

Cutting pond, dike, or banke in Marsh-land.

Conjuration or invocation of evill spirits. *1. Ja.* 12.

Consultation with an evill spirit, &c. *Vid. 1. Ja.* 12.

Embezeling the Kings ordnance, armour, &c. to the value of 20. shillings, though at severall times. *31. El.* 4. *Dal.* 279.

Embezeling of any record, writ, &c. *8. H.* 6. 12.

Rasing of a record is fineable at the Kings will, &c. *8. R.* 2. 4.

} These two belong  
not to Justices of  
the Peacē.

Forging<sup>l</sup> of evidences, &c. the second time. *5.E. 14.*

Goaler enforcing his prisoner to become an approver.

Hawks embezelled, & not brought to the Sheriffe.

Hawks concealed or stolen from the owner.

Hunting Deere or Conies in the night, and upon examination concealing the offence, or disobeying the arrest for such offence.

Taking a tame beast or other thing in a parke by way of robbery.

Marrying a second husband or wife, the first living. *1. Jac. 11.*

Multiplication of gold or silver.

Infected with the plague, going into company contrary to command. *1. Jac. 31.*

Wilfull poysoning, if the party dye within a yeere and a day after.

To receive, relieve, or maintaine Popish Priests.

Recusants refusing to abjure or returne after departure.

Purveyour taking for the Kings house any thing above 12. pence.

1 Without warrant under the great seale. *Vide Dal. 278. Edit. 1626.*

2 Buying any thing in any other manner than is contained in their warrant.

3 Taking any carriage in any other manner than is comprised in their commission.

4 Shall carry away any thing against the owners will, without paying or agreeing for the same.

5 Shall not make his provision and purveyance by the testimony and apprizement by the Constable and foure neighbours sworne, if the purveyour and owner cannot agree, and shall not deliver tales or indentures

indentures sealed with his seale touching the same.

6 Or shall take more victualls or carriages than he shall deliver unto the Kings house.

7 Or take sheep in wooll betwixt Easter and Midsummer at small prices, or more than be sufficient for the Kings house, and carry them to his owne, and sheare them.

In every of these cases it seemeth to be felonie in such purveyour, their deputy and servants.

A Chater of any subject or officer taking any thing against the owners consent, and not paying presently. 36.E.3.6. 7.R.2.8. 23.H.6.14.

Incorrigible rogues banished the Realme, and returning without licence. 39.El.4.

Robbing house, barne, or stable in the day to the value of 5.shillings, though no body be within. 39.El.15. no clergie. 11.rep.36.Lam.405.

Robbing any house by day or by night, any person being therein, and thereby put in feare, *ibid.* without clergie.

Robbing any person in part of his dwelling, any of his household being within, *ibid.* without clergie.

To rob any Booth in Faire or Market, any person thereto belonging being within, sleeping or waking, *ibid.* sans clergie.

Servant (other than an apprentice) to whom money, goods, or chattels, &c. are delivered to keep by master or masters to the value of 40.shillings, do go away therewith, or convert them to his owne use, to the intent to sell the same, or defraud his master or masters. 21.H.8.7. 5.El.13.Dal.260.

Souldiers going out of the Realme to serve a foraine Prince, not having first taken the oath of allegiance. 3.Jac.4. Dal.280.

A Gentlemen, or of higher degree, Captaine, or other

other Officer in Camp, going to serve a forrainer before he is bound with 2. sureties to the King, not to be reconciled to the Pope, &c. nor to make nor consent to any conspiracy against the King. 3. Jac. 4.

Souldiers having taken presse-money, not going with their Captaine; or being in service, departing without licence. 18.H.6.19. Cook 6.27. 7.H.7.2. 3.H. 8.cap.5.

Mariners and Gunners taking presse-money to serve the King, & departing without licence. 5. EL 5.

Souldiers and Mariners which settle not themselves to some good course of life, but wander idly. 39. EL 17.

Souldiers and Mariners landing, and not having a Testimoniall from some Justice of Peace neere their landing. *ibid.*

2 Or exceeding the time limited, wilfully, fourteen dayes, *Vide* 43. EL 3. that they shall be punished as Rogues.

3 Or forge, or have forged Testimoniall, knowing it to be forged.

4 Or being retained in service after arraignment, doth depart within the yeere without the masters licence. 39. EL 17.

Transporting live sheep, the second offence is felony. 8. EL 3.

Ravishing a woman with force, though consenting afterward. 13. E. 1. 34. H. 2. 18. EL 6.

All abettors in rape are principalls. Dalton 281. Cro. 47. b.

To ravish a harlot against her will, is rape. *ibid.*

To take any maid, widow, or wife having lands or goods, or being heire apparent to her ancestor, against her will, unlawfully. Dal. 282.

And to receive any knowing them, or to procure and



and abet the same. 3.Hen.7.2. Dal.Cro. *ibid*.

To abuse a woman carnally under ten yeeres of age. 18.El.6.

To take a mans wife with her husbands goods against her will, or her husbands. 13.E.1.34. West.2.34. Dal.282.Cro.35. Stamf.94. 13.Aff.6.

Feloniously to take goods out of any Church or Chappell. Lam.258,276.

A woman delivered of a bastard, doth by drowning or secret burying thereof by her selfe or other couceale the death thereof, so that it may not come to light; if it were dead born or alive, it is murder in the mother, except she can prove by one witness that the childe was borne dead. 21.Jac.27.

To acknowledge any fine, recovery, deed inrolled, statute, recognizance, baile, or judgement in the name of another not privie to the same, is felony without clergie. 21.Jac.26.

Felony of his owne goods, *vide* Theft.

Ferrets, *vide* Hunting.

## Fewell.

One Justice of Peace may set on the Pillory, in the next Market Towne to the place of offence, any person convicted of breaking the assise of fewell, and not able to pay the forfeiture, there to be at eleven of the clocke on the Market day with a billet or faggot bound to some part of his body. Quære, whether one Justice may convict him alone. 7.E.6.7. Lam.196.

## Fines.

Fine taketh his name of the Latine *finis*, for that it maketh an end with the King for the imprisonment laid upon the offender for the offence committed against him. Lam.574.

Upon

Upon payment of the fine, or upon pledges found with a recognizance to pay it, the offender ought to be delivered. *Lam. ibid.*

The assignment of fine belongeth to the Justices before whom the conviction is lawfully had. *Lam. 576.*

Stander by when a man was slaine, is to bee imprisoned till hee make his fine, because hee did not his best to attach the murderer: so of other felonies. *Lam. 132, 289.*

Fine upon a forcible entrie or detainer upon offenders convicted of record by a Justice of Peace, and by him committed to the Goale, shall be assessed by the same Justice, and upon bonds with sureties he may enlarge them. *Tamen quære*: and estreat it, and send it into the Exchequer, 162. but it is best to leave the fine to the discretion of the Kings Bench. *Lam. 158, 159. Dal. 58.*

Upon conviction for offences, where no fine certaine is limited, no fine can be assessed till the offender bee brought in by *Capias pro fine*, or otherwise, unlesse it be for Alehouses and High-waies. *Lam. 573.*

Where any statute speaketh of fine and rancome, the rancome ought to be at least treble the fine. *Lam. 575. Institut. 127. a.* the opinion of Sir Edward Cooke is, that fine & rancome are all one. *vid. well discussed.*

Where the statute maketh an offence fineable in generall termes, or at the Kings will, the Justices of Peace before whom the conviction is had, may assess the fine, which is fittest to be done in open Sessions. *Lam. 576.*

Fines upon the statute of tyles, of crossebowes, and of alehouses, by expresse words of the statute may not be altered. *Lam. 545, 559, 578.*

Fines must be reasonable and just, according to the quality of the offence. 34.E.3.1. *Lam.* 577.

After one is taken by a *Capias pro fine*, the Justices of Peace are to assesse the fine by their discretion; and to deliver the party. *Lam.* 574.

Fines of rioters, *vide* Riots.

Fines of Brewer, Baker, Tipler, *vide* assise of bread

### Fish.

Stealers of fish out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and three moneths imprisonment, and to the party grieved his treble damages. 5.El.21.Lā.446. See 3.Ja.13.

If any cast nets into waters, by which the frie of fish may be taken, or take Salmons betwixt the nativitic of Mary and S.Martin, or young Salmons betwixt the midst of April and Midsummer, one Justice may punish them for the first offence, by burning their nets and engines; for the second, by 3. moneths imprisonment; for the third, by one yeeres imprisonment; and for any of them, by fine at the discretion of the Justice. *Westm.* 2.c.47. 13.R.2.19. 17.R.2. cap.9. *Lam.* 190, 203, 454, 576.

Forfeitures upon the statute, 3.Ja.12.

Where any offence is committed, in destroying the spawn or brood of sea-fish, a fine may bee levied by distresse and sale of the offenders goods, by warrant from one Justice of Peace to the Constables or Churchwardens. 3.Ja.12. the forfeiture given is 10.shillings, the one moitie to the poore, &c. the other to the person that shall sue for the same.

He that shall by preaching, teaching, writing, or shall notifie upon open speech, that the eating of fish, or forbearing of flesh upon any daies now usually

ally observed for fish-dayes, is for necessity of salvation of soules, or is the service of God otherwise than other publicke lawes be, shall be punished as spreaders of false news are and ought, &c. *5.El.5.1. Jac.29. Lam.442.*

Any, except aged, sicke, with childe, or licensed, eating flesh in Lent, or on fish-dayes, loseth 20.shill. and one moneths imprisonment. *5.El.5.27.El.11.Lamb.433,458. 35.El.7.1. Jac.29.*

Taverners, Inne-keepers, common Tabling-house, Tippler, or Alehouse-keeper, offending against the statutes, *5.El.5. & 1. Jac.29.*

Against killing, dressing, and eating of flesh, is to lose the flesh, and the penalty of *5.El.5.* which is 3.pounds. *1. Jac.29. Lam.458.*

Forfeiture upon the statute, *1. Jac.29.* for eating of flesh, except such as be taken by the Justice of Peace, Maiors, Bailiffes, head-officers, or Constables, are to be equally divided betwixt the King and the Informer. *1. Jac.29.*

Licence granted to sicke persons to eat flesh on fish-daies, shall be no warrant for them to eat beefe, mutton, veale, porke, or bacon. *1. Jac.29.*

Butcher or other, though licensed, killing in Lent to sell any oxe, beef, hog, calf, or mutton, except three daies next before Easter, or oxen, or beefe for victualling of ships, loseth the meat or value. *1. Jac.29.*

Justice of Peace, or head-officer of corporations, or Constables of Towns, may in Lent search victuallers houses suspected of dressing flesh, and finding any flesh, beefe, hog, calfe, or mutton, may seise on it, and give it to the poore. *1. Jac.29.*

### Flaxe.

Forfeiture due to the Informer upon the statute of  
hem

hempt to be levied by what Proces the Justice will.  
24. Hen. 8. 4. Lam. 584. but 24. Hen. 8. 4. is repealed by  
35. El. 7.

Flesh, *vide* Fish-daies.

Forraine power, *vide* Treason.

Forraine plea, *vide* Tryall.

## Force.

Force is twofold.

Every trespass in judgement of law is a force, and  
the action may be, *Quare vi & armis*. Dal. 195. Lã. 141

That which is properly { *Manu forti*, or  
force, is either { *Multitudine*.

*Manu forti* is violence offered to the person of another by deed or word. Dal. 195.

By deed, as actuall violence, or to be furnished with  
offensive weapons not usually borne. *ibid*.

Any thing which a man taketh in his hand to  
throw it at another, may be said to bee armour.  
Cro. 74. b.

*Multitudine*, when there be two or three in a company, or more. Dal. 195.

Forcible entry must be an actuall entry. Dal. 195.

If one or more come weaponed, especially with  
weapons unusually worne, and violently enter into  
an house or land. Dal. 195. Lam. 142, 145, 147.

Much more being entred, if he or they offer violence, or fear of harme to any in possession, or drive  
any out of possession. Dal. *ibid*. Lam. 143.

Many come to do a force, and one only useth force,  
all are guilty. Dal. 200. Lam. 134, 143, 146.

To enter peaceably, and forcibly to put out another. Dal. *ibid*. Lam. *ibid*.

To enter peaceably, and after to offer violence,  
threatnings, or feare of harme to one in possession,  
with

with intent to get him out, though he get him not out. *Dal. ibid. Lam. ibid.*

*Who shall be said to enter with force.*

Entring peaceably, and saying they will hold, although they dye for it. *Dal. 196. Lam. 146.*

To enter peaceably with weapons not usually born by them to house open or grounds. *Dal. ibid.*

The Master entring with more servants than usually. *ibid.*

A trespassse made *manu forti*, or *cum multitudine*, though it be but to cut or take away another mans corne, grasse, or goods, or fell or crop wood, or to do any other trespassse, though the party be not put out of possession, yet it seemeth forcible entry punishable by the statutes: but otherwise if the entry be peaceable, yet it is disseising with force. *Dal. 196. Lamb. 143, 145.*

To enter peaceably, and after entry, by force or violence to cut corne, grasse, wood, &c. or carry away anothers goods, is force. *Dal. 196. Cro. 70.*

To distrain for rent due or not due with force, doth countervaile a force. *Dal. ibid. Lam. 144. 20. H. 6. 11. 43. ass. pl. 6. 22. H. 6. 23.*

Divers enter where the entrie is not lawfull, and all save one demeane themselves peaceably, and one only entreteth with force, or after entry useth force, it is forcible entry in all. *Dal. 209. Cro. 22. a. 24. b. 34. b. Lam. 143.*

In all these cases of trespassse, onely the Justice of Peace may, as it seemeth, remove the force, and upon view imprison and fine. *Dal. 196, 198.*

*Forcible entry by words.*

To enter peaceably, and then to offer by threatening to kill the disseise if he re-enter. *Dal. 196.*

*What*

*What is not force.*

To enter by faire meanes, his entry being lawfull, and perswade them within to come out, and the doore being open; or shut by the latch, to enter without combating, or offensive weapons, or other violence. *Dal. 197.*

To enter peaceably and quietly, getting other out, and quietly to hold it. *Dal. ibid.*

To enter peaceably into a house, and finding armour or weapons, not to remove them. *Lam. 145.*

To take a man being out of his house, and imprison him, and in the meane time to send another peaceably to enter, is no force. *Dal. 197. Lam. 146.*

He that onely agreeth to a forcible entry made to his use. *Dal. 200. 2.H. 7. 19.*

## Forcible detainer.

Forcible detainer is of lands and tenements, not of the person. *Dal. 197. Lam. 146.*

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had been had for three yeeres. *Dal. ibid.*

To deny a Justice of Peace to enter (upon supposition of a forcible detainer) is forcible detainer, though it be but by one person, & no weapons shewed. *Dal. 197. Cro. 70. b. P. R. 41. Lam. 145.*

If the Justice enter, and findeth any arraiied, or any armour or unusuall weapons lying by them, or find more than the ordinary family. *Dal. 198. Lam. 145.*

*What shall be said a forcible detainer.*

To enter peaceably, and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in a house adjoyning ready to assaile the enterers. *Dal. 198. Lam. 145.*

The disseiser forestalleth the way of the disseised with force, so that he dare not come heere. *Dal.* 198. *Cro.* 69. *Lam.* 145.

To keep cattell by force where hee hath no common, the Justice may imprison and fine, but not make restitution. *Dal.* *ibid.* *Cro.* *ibid.* *P.R.* 39.

Forcible detainer to resist the Lord in taking a distresse. *Lam.* 146. *Dal.* 141. *Cro.* 70. *P.R.* 39.

To detain a house morgaged by force from the morgager, is forcible detainer. *Dal.* 199.

*What is forcible detainer by word.*

To enter peaceably, and after to threaten to kill the disseised if he come againe. *Dal.* 198. *Lam.* 146.

It seemeth to amount to a forcible detainer to threaten to maim him, beat, or do bodily hurt to the disseised if he come againe, *Dal.* *ib.* for that death may ensue upon such beating or hurt. 39. *H.* 6. 5. 7. *E.* 4. 2. 1

*What is not forcible detainer.*

One entreth peaceably into a house, and finding armour or weapons, doth not remove them. *Lam.* 145.

To threaten to burn his house or spoile his goods, to deny to open the doores, to deny to go out. *Dal.* 198.

*What is forcible detainer of rent.*

The tenant resisteth so forcibly, that the owner cannot distrain for his rent, nor use his common of pasture. *Dal.* 199.

The tenant forestalleth the way by force & armes, or threatneth him that hath the rent or common, that he dareth not distrain or use his common. *ibid.*

The tenant maketh rescous of the distresse with force and armes.

In these cases of rent or common, the Justice may remove the force, record it upon view, imprison and fine, but can award no restitution.

Forcible



## Forcible entrie.

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### *What persons may make a force.*

One alone, if it be with offensive weapons or turbulent behaviour, to the affray of others. *Dal. 199. Lam. 143.*

An infant of the age of 18. *Dal. ibid. Cro. 69. a.* and so he may though he be under 18. *Perk. 10. b.*

A feme covert may by her owne act make a forcible entrie or detainer, and shee may be imprisoned and fined, but the fine cannot be levied on the husband. *Dal. 200.*

### *Consent.*

If one command or counsell others to a force, and be present, though he do nothing, he is a principall, *Dal. 200.* but if absent, a disseiser.

Divers enter, one onely committeth force, all are guiltie. *ibid.*

### *Who cannot be put out.*

The King cannot be disseised, therefore an enditeament upon the statute 8 Hen. 6. for the King is not good, neither can the Kings Farmer preferre a Bill of enditeament upon the said statute, but must have an information in the Exchequer. *Dal. 201. Cro. 69. a.*

### *Where one may hold with force.*

Where one hath peaceably entred, and after continued in quiet possession without interruption for 3 yeeres together, *Lamb. Dal. 206, 207.* and may hire strangers to maintaine his possession, and have his company in armour, *Dal. ibid. Cro. 71.* but he may not resist the Justice of Peace that cometh to view.

Upon enditeament of forcible holding the plea three yeers lawfull possession next before, avoideth imprisonment, fine, and restitution. *Dal. 207.*

But it holdeth not,

1 If the entry were forcible, though the holding peaceable.

2 If the holding were forcible, though the entry peaceable.

3 If a disseiser have continued peaceable 3. yeeres. Quære if he shall be helped by 8.H.6. or 31.Elif.11. If a disseiser have forcibly continued his possession twenty yeeres, he may be endited upon 8.H.6. and the Justice may make restitution. Cro.71.3. 14.H.7. cap.28.Lam.160.

4 If the possession of three yeeres have been interrupted. Dal.207. Cro.71.2.Lam.162.

A disseiser quietly holdeth three yeeres, and after the disseisee entreth or maketh claime, the disseiser re-entering cannot hold with force, for he is in upon a new disseising. Dal.208.

A lawfull possessor, after twenty yeers possession is acted, he can neither re-enter, nor hold with force. *ibid.*

### What force is lawfull.

Force used by the Kings Officers for the due execution or advancement of justice, or of the judgment of the law: as,

1 To pursue, apprehend, and carry to prison offenders in treason, felony, or other great crimes.

2 A Sheriffe or his officers to apprehend by vertue of the Kings Writ.

3 A Justice removing unlawfull entries, or holding of possessions, and repressing riotters. Dal.204.

4 Justice, Sheriffe, Constables, or Coroners, may use force in apprehending or imprisoning such as in their presence attempt to disturb or breake the Peace.

5 It is lawfull by force to breake open doores, to arrest

arrest offenders within, if the officer cannot other-  
wise enter.

Note, that the officer is first to signify the cause  
of his coming, before he attempt to breake o-  
pen the doores. *Dal.* 205. as,

First, for treason, felony, or suspicion of felony.  
*Cro.* 170.b.

2 Where one hath dangerously wounded another.  
*Cro.* 131.a.

3 An affray being in the house. *Cro.* 146.b.

4 Upon a forcible entry or detainer found by in-  
quisition. *Dal.* 176.

Upon a *capias uilegarum* in personall action, or  
*capias pro fine* directed to the Sheriffe. *Crom.* 170.b.  
27.aff.35.

6 Upon Warrant or Proces for attaching a Popish  
Recusant excommunicate. 3. *Jac.* 4.

7 Upon a Warrant for the peace or good behavi-  
our. *Dal.* 205. but *Cro.* 176.b. maketh a quære.

8 Upon recovery in a reall action, or *ejectione fir-  
me*, but not to execute the Kings Proces upon the bo-  
die or goods of any person at the suit of any subject.  
*Dal.* 205.

9 In all cases where the King is party. *ibid.*

1 Forcible defence is lawfull for every man to  
keep his house to himselfe, his family and goods, as  
his castle, as well for defence against injury, as for  
his repose. *Vide plus Houses.* *Dal.* 206.

2 In defence of husband, wife, father, mother, or  
master.

3 Father or mother in defence of the child within  
age. *Dal.* *ibid.*

4 In defence of my goods or my land. *Dal.* *ibid.*

In these cases hee that attempteth may be di-  
sturbed, and if hee attempt to assault or lame me, I

may beat him againe, as well in defence of my person as possessions, but not kill him.

*What Justices of Peace are to doe in forcible entry or detainer.*

Every Justice upon complaint or notice given, ought at the cost of the party grieved to doe execution: *viz.*

1 He must go to the place. *Dal. 57. Lam. 148, 149.*

2 Take sufficient power of the County, or of the Towne, and the Sheriffe also, if need be, as well to arrest offenders, as also for removing of the force, and for conveying them to the Goale. *Dal. ibid. Lam. ibid.*

3 Arrest and remove all offenders, and take their weapons, and prize them for the King. *Dal. ibid.*

If the doores be shut, and entrance denied, he may break open the house. *Dal. 57. Quire.*

The Justice cannot arrest or remove them, if hee find no force, except by enquirie. *Dal. ibid.*

The Justice ought to make a record of the force, and either keep it by him or indent it, and certifie one part either into the Kings Bench, or to the Clerk of the Peace, and keep the other. *Dal. ibid.*

The record of the Justice is a sufficient conviction of the offender, and is not traversable. *ibid.*

The Justice ought to commit immediately to the next Goale, those which hee findeth continuing the force, untill they pay their fine, *ibid. & 111.* or forfeit an 100. pounds. *ibid.*

But such force must be in the presence or view of the Justice.

The Justices, or some of them that see the force, are the proper Judges of that offence, and may asseesse the fine, but it must be upon every one severally. *Dal.*

*Dal. 111.* and is to be estreated into the Exchequer ; upon which assessing and estreating the party is to be delivered. *Dal. 58.*

And so upon payment of the fine to the Justice, or recognizance for payment. *Dal. 58.*

Quere, for the Sheriffe is accountable for all fines. *Lam. 574.*

Or the Justice may record the force, commit the offenders, and certifie the record to the Just. of Assize, or to the Sessions, and there the offenders fined. *Dal. 58. Cro. 161. a.*

But ought more properly to be assessed by them that record the force, *Dal. 91. Cro. ibid.* and to be of value.

Or the Justice may certifie the record into the Kings Bench, referre the fine thither, *Dal. 58.* which *Lambert* thinketh the best course.

The fines must be reasonable, *secundum quantitatem & qualitatem delicti.*

The force ought to be enquired of in some good place or towne neere where the force was, *Dal. 58.* and that within a moneth, if it be a riot. *Dal. 111.* One Justice may enquire. *Dal. 58.*

Enquirie may be though the offenders be not present, or though the Justice goe not to see the place where the force is. *Dal. 58. Lam. 151.*

Without enquirie there can be no restitution. *Dal. 109. Cro. 161. b. 164. a.*

Upon enquirie making, the Justice must direct his precept to the Sheriffe to summon 24. of 40. shillings a yeere land *per annum.* *Dal. 209.*

Upon default the Justice may award an *alias* and *pluries infinite* till they come.

The Sheriffe, at the day of the second precept, must return 40. shill. in issues upon every one, at the third

Writ five pound, and at every day after the double.  
8. Hen. 6. 9.

If any Jurour have not 40. shillings land, yet the enditement is good for the King. *Quere* if there shall be restitution. *Dal.* 209. *Lam.* 152.

Returning of smaller issues than the statute, hindreth not the enquirie. *Dal. ibid.* *Lam. ibid.*

Upon enquirie the Justice may make restitution, wherein the Justice needeth not to examine the title. *Dal.* 210. *Lam.* 156.

No restitution before inquisition. *ibid.* *Crom.* 161, 164. a. *Dal.* 210.

In the enditement not only the entry, but also the putting out must be, and *et adhuc extra tenent*, *Lā.* 153 for lacke of these words no restitution can be made. *Dal.* 210. *Cro.* 163. *Lam.* 153.

The enditement must be good, both in matter and forme, *Dal.* 211. the words *manu forti*, or *cum multitudine*, are necessarie. *ibid.*

The enditement must expresse the qualitie of the thing, whether messuage, cottage, &c. *tenementum* may extend to either, and so uncertaine. *Dal.* 210.

If restitution be made by a Justice upon an insufficient enditement, the Kings Bench will restore the other. *Dal.* 211. *Cro.* 162. a.

If error be in the enditement, any two of these Justices which were at the taking of the enditement, upon prayer of the party may grant a *superfedeas* to stay restitution, if restitution be not made. *Dal.* 211. *Cro.* 165. a.

But no Justice not present can grant a *superfedeas*. *ibid.*

The Justice may make restitution, or give warrant to the Sheriffe, or certifie into the Kings Bench, and

and leave the award of restitution to that Court.  
*Dal. 212. Lam. 156.*

None can grant restitution, but they before whom the force was found, *Dalton 212.* except the Kings Bench.

None can personally restore the party, but he that rooke the enquirie. *Dal. 212.*

But by precept to the Sheriffe. *Lam. 158.*

After enquiry the Justice of Peace may break into the house by force, and put the ejected into possession. *Dal. 59.*

If restitution be made without enquiry, it is punishable in the Starre-chamber. *Dal. 45.*

Restitution must onely be made to him that was put out. *Dal. 60. postea 18.* a case proper for this place.

Restitution is to be made onely of house and land; *Dal. 60.* but not of rent, common, or advowson.

Restitution may be made notwithstanding a traverse, *Dal. 60.* but upon tender of traverse, the safest way for the Justice is to certifie the presentment into the Kings Bench. *ibid.*

If the Justice upon complaint or notice given of a force, do not remove the force, record it, and commit the offenders, it is punishable in the Starre-chamber. *Dal. 60.*

The offenders being gone, the Justice may send his Warrant, and commit them till they find surety of their good behaviour. *Dal. 60.*

If force be made by three, it is a riot. *Dal. 61.*

*The proceedings upon a Writ upon the Statute of Northampton, 2. Ed. 3. 3.*

1 The Justice of Peace to whom this Writ is delivered,

livered, is but a minister therin, and coming to the place where the force is supposed, by the Writ hee may cause 3. O-yes, and then make proclamation for silence, *prout Dal. 61. Cro. 72. a. b. Lam. 168.*

2 Then may he reade, or cause the Writ to be read, or declare the effect thereof.

3 Then let three O yes be made, and make proclamation againe for the peace, *prout Dal. 61. Cro. 42. b. Lam. 169.*

4 Either enter and search for armour, or enquire by Jurie. *Dal. 62.*

All that remaine after proclamation, are to be imprisoned, and the armour apprized. *ibid.*

If upon proclamation they depart, they are not to be imprisoned.

***The execution of the statute of Northampton without Writ.***

Every Justice of Peace may execute it *ex officio* without Writ. *Dal. 62. Cro. 72. a.*

The difference in the manner of execution is, that without Writ there needeth no proclamation nor certificate into the Chancery, but the Justice may enter, search, commit the offenders there found, apprise the armour, record all what he shall doe, and therewith send an estreat into the Exchequer. *Dal. 62. Cro. ibid.*

The Justice cannot make restitution to the parties outed, but only remove the force. *ibid. Lam. 162.*

Of causes to stay granting of restitution, *vide Dal. 214.*

***Forfeitures of a recognizance taken for the Peace.***

Whatsoever is a breach of the peace, the same is a forfeiture



forfeiture of the recognizance. *Dal.* 177. as,

1 To threaten a man to hit face to beat or kill another, *Dal.* 148. *Cro.* 136. b. *Lam.* 115. but not if he be absent. *ibid.*

2 To strike at, or offer to strike at a man, though he hit him not.

3 All affraies, malicious and violent striking, or other mis-intreatings of the person of another. *Dal.* 177. *Lam.* 127.

4 To goe with company or weapons unusuall. *Dal.* *ibid.* *Cro.* 137. a. *Lam.* 126.

5 To command or procure another to breake the peace, and if it be done in deed. *Dal.* 178. *Lamb.* 115. *Cro.* 137. a.

6 Imprisoning or arresting another without warrant. *Dal.* 178. *Lam.* 127.

To thrust one into the water, whereby hee is in danger of drowning.

To ravish a woman against her will.

To commit burglarie, robbrie, murder, manslaughter, or doe any treason against the person of the King. *Dal.* 178. *Lam.* 127.

To be riotously assembled.

The act that breedeth the forfeiture of a recognizance of the peace, must be done unto the person of another. *Dal.* 178.

Of a recognizance, *vide* recognizance, *vide* plus breach of the Peace and Fines.

One committed for petty larcenie, and convicted thereof, shall forfeit his goods. *Lamb.* 273. *Dal.* 130. *Cro.* 36. b.

Forfeitures upon statutes, *vide* Severall statutes.

Forgery.

Second forgerie of deeds concerning anothers land after a former conviction is felonie, *1. Elis. 14.* but not enquirable by the Justice of Peace. *Dial. 280. Cro. 56b.*

### Forraine Plea.

One indicted of petty treason, murder, or other felonie, pleadeth a forraine Plea tryable by Jurie, it shall be tried before the Justices before whom hee was indicted, and by the Jurours of the same County. *22. H. 8. 14. 32. H. 8. 3.*

### Forrester.

Forrester killeth any man in his office making resistance, it is justifiable. *21. E. 1. de malefactoribus in Parcis. Lam. 235.*

### Forestalling and Forestallers.

Forestaller is he that buyeth or contracteth for any victuals or wares before they come to the Market, Faire, or Port, or moveth the party to the price, or not to bring them to the Market, Faire, or Port. *12. 450.*

Forestaller convicted before the Justice of Peace at the Quarter Sessions by examination of two witnesses, or presentment for forestalling, for the offence shall

1 Lose the goods, and be imprisoned two moneths without baile or mainprise.

2 For the second lose double the goods, and be imprisoned for six moneths.

3 For the third lose all his goods, stand in the pillorie, and be imprisoned during the Kings pleasure. *3. E. 6. 14. Lam. 570.*

The moytie of the forfeiture upon the statute of forestallers due unto the partie, is to be levied by

*Fieri*

*Fieri facias* or *Capias*, to be awarded by the Justice of Peace. *Lam* 584.

Fowlers and Fowling.

Shooter, taker, or destroyer by gunnes, bowes, setting dogges, nets, or other engines, of any Pheasant, Partridge, Pigeon, Heron, Mallard, Ducke, Teale, Wigeon, Growse, Heathcocke, Mooregame, or such fowles, upon conviction by confession or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned 3. months without baile, unlesse he pay to the Churchwardens of one of the places, to the use of the poor, 20. shill for every Pheasant, and also for every egge of Pheasant, Partridge, or Swan taken or destroyed, or after one moneth of his commitment become bound with two sureties in recognizance of twenty pound never to doe the like, the same recognizance to be returned to the Quarter Sessions. *1. fac. 27. Lam. 334. Dalton 89. 7. fac. 11.*

*Vide* Partridges and Pheasants.

Games, *vide* Unlawfull games.

Goale, Goaler.

Goaler or Sheriffe may make a goale of his owne house; so cannot a Constable nor Justice of Peace. *Lam. 133. Dal. 339, 340.*

Goaler suffers a felon to goe at large, and he escapes; it is felonie in the Goaler, not in the prisoner. *Lam. 129 Dal. 274. P.R. 147, 149.*

Goaler by hard and cruell custodie compells his prisoner to become an approver; it is felony. *14. H. 3. cap. 10. Lam. 420. Dal. 280. Cro. 49. 2.*

Goaler

Goaler killeth an unruly prisoner which doth assault him; it is no felony, *Lam. 235.*

Goaler by hard usage killeth his prisoner; it is murder. *Lam. 240.*

Goaler that taketh above 4. pence upon commitment of any prisoner arrested or attached, forfeiteth to the party grieved treble damages, and 40. pounds, the one moiety to the King, the other to the party that will sue for it. *23. H. 6. 10. Lam. 430.*

Goaler or Sheriffe refusing to take a felon delivered by Constables or Township, or taking any thing for receiving, is to be fined. *4. E. 3. 10. Lam. 434. ante fol. 66.*

Six Justices may in sundry shires take order for the common goale, whereof the Sheriffes shall have the custody, and to which murderers and felons, &c. shall be sent, and may perform many incidents thereto by the statute. *23. H. 8. 2. 13. El. 25. Lam.*

Accountant for money levied for the goale to build it, goeth into another County; the Justice of Peace where the goale is may send an attachment for him unto another shire. *23. H. 8. 2. 25. Hen. 8. 5. 5. Elis. 24. Lam. 525.*

Goaler suffereth a prisoner to go abroad out of his sight, and he returneth again; it is an escape. *Cro. 39. b.*

Goaler refuseth to receive one arrested for felony, the Towne must keep him till the Goale-delivery, *Dal. 340, 341. Cro 172. a.* but the Goaler denying to receive such, shall be punished by the Justices of Goale-delivery. *ibid.*

Goaler shall take no fees of any servant, carpenter, mason, nor other labourer committed for refusing to serve, on pain of 10. pound to the King, and 100. shillings to the party. *34. E. 3. 9. Cro. 185. a. b.*

Glassmen.

## Glassemen.

95

Glassemen of honest life may travell without beg-  
ging within the County, by licence of three Justices  
under their hands and seals, one being of the Quo-  
rum, 39. *Elis* 4. but by 1. *Jac*. 7. they are made rogues,  
and so to be punished.

## Goldsmith.

Goldsmith, or worker of gold must worke as fine  
silver or gold in alloy as the sterling, and set his  
marke on it, or forfeit the double value. 2. *Hen*. 6. 14.  
*Lam*. 467.

None to gild any thing, or any metall but silver,  
except spurres of Knights, and apparrell of Barons,  
or above, on pain of 10. times the value, and 2 yeeres  
imprisonment. 2. *H*. 5. 3. *Lam*. 467.

## Good abearing.

Good abearing may be granted upon discretion,  
and that by one Justice of the Sessions; yet better  
not to command it but upon speciall cause seen to  
themselves, or upon suit of others, and those very  
honest, and seldome for one cause alone, and not by  
one Justice onely. *Lam*. 120. *Dal*. 187.

Good behaviour may be granted by speciall Writ  
out of the Chancerie, *Custodibus pacis & viccomiti*  
*& eorum cuilibet*, upon the statute of 34. *Ed* 3. 1. *Lam*-  
*bert* 117. *Dal*. 188.

*For what causes it is grantable,*

*Dal*. 188.

1 Against common barretours, quarrellers, and  
disturbers of the Peace.

2 Rioters.

3 Lyers in wait to rob.

4 Geno-

4 Generally feared or suspected to be robbers by the High-way.

5 Such as are likely to commit murder, homicide, or other grievances to the Kings subjects in their bodies.

6 Such as shall practise to poyson another.

7 Against all such as be of evill name or fame generally, but especially against such as are defamed in these particulars.

1 Those that haunt bawdy-houses.

2 Suspected to keep houses of common bawdery.

3 Common whoremongers and common whores.

4 Night-walkers that bee suspected to bee pilferers.

5 Eveldroppers that cast mens carts and gates into ponds, and such like misdemeaners in the night; such as live idly, yea fare well, and go well clad, having little to live on, except upon examination they give good account of such their living.

6 Common haunters of Alehouses or Tavernes, having small meanes to live on.

7 Drunkards twice convicted.

8 Messengers of thieves.

9 Such as make false hue and cry.

10 Cheaters and cozeners.

11 Libellers.

12 The putative father of a bastard.

13 Unlawfull hunters in Parkes, after examination taken.

14 Abusing of officers in executing their office, as Justice of Peace, Constable, or other officer of the Peace; as a Justice seeth a man break the Peace, and doth charge him to keep the Peace; who answereth, he will not.

Words of contempt against a Justice of Peace, though he be not executing his office.

15. Abusing a Justice of peace his warrant.

16. He that complaineth of riot or force, and the Justices being assembled for inquirie will not prosecute.

17. He that chargeth one with felonie before a Justice, and will not prosecute.

18. Abusing of a *Supersedeas* of the Peace to a wrong end.

*By divers Statutes.*

1. Disturbers of Preachers. 1. *M.* 3.

2. Destroyers of fish-ponds, or stealers of fish, after lawfull conviction. 5. *Elix.* 21.

3. Takers of hawks or hawks egges out of other mens grounds, after lawfull conviction. 5. *Elix.* 21

4. Stealers, hunters, or killers of Deere, or Conie in Park or warren after lawfull conviction. 3. *Iac.* 13.

*All these must be bound at the Sessions.*

5. Popish recusant must bee bound in the Kings Bench. 23. *Elix.* 1.

6. One pardoned for felonie, bound before the Sheriffe and Coroners. 10. *Ed.* 3. 3.

7. Disturbers of the execution of the statute for rogues. 39. *El.* 4.

8. Disturbers of the execution of the statute for the Peace. 39. *Elix.* 4.

9. Shee that hath had twice a bastard. 7. *Iac.* 4.

10. Infected with the plague, or hauling their houses infected and are unruly. 1. *Iac.* 31.

Greyhounds, *vide* Hunting.

Gunner that departed from his Captain without licence, or wandring with a forged licence, it is felonie. *Lam. 417.*

Every person may attach an offender against the statute, 33. H. 8. 6. and carry him to a Justice of Peace. *Dal. 65.*

And the Justice upon examination may send him to to the goal till the penaltie be paid,

*The particulars of the statute, 33. H. 8. See 3. Jac. cap. 13.*

None under 100. pound *per annum* may shoot in, or keep a gun, dag, pistoll, crosse-bow, or stone-bow.

None may have or use any gunne under three quarters of a yard in length.

One of a 100 pound *per annum* may take such gun from the offender, or any crosse bow or stone-bow, and may keep the bow, but must break the gunne.

None may travell with a gun charged or bow bent, but in time of service, and to the musters, except hee have a 100. pound *per annum*. *Dal 65.*

None may shoot in a gunne neare a market Towne, but in defence of his house or person, or at a Bur.

The master may not command his servant to shoot, except at a Bur, or in warre.

1. Except servingmen (whose masters are enabled) at a Bur.

2. Inhabitant of market Town.

3. Persons dwelling alone or neare the Sea within five miles.

4. Gun-makers.

5. That have Placards.

All persons which shoot in guns, ought to present their names to the next Justice of Peace, and the Clerk of the Peace should record it.

*Vide plus Hunting.*



## Hares. Harnesse. Harvest. Hawks. 99

### Hares.

**B**uying and selling of Hares, *vide* Partridges:  
See the statute, 1. Jac. 27. in fowlers.

### Harnesse and habiliments of war.

To imbezill habiliments of war or victuals provided  
for souldiers, mariners, or gunners, is felonie, 3 Ed. 4.

Hat proclaimed, *vide* Deere.

### Harvest time.

Artificers and other persons meet to labour, com-  
pellable by one Justice of Peace or Constable, and  
the refuser to labour in hay time or harvest, to bee put  
in the stocks two dayes and one night. Lamb. 475.

### Hawkes and hawking.

Unlawfull taker of Hawks egges is to have throe  
moneths imprisonment, there to remain till hee finde  
sureties for the good behaviour for seven yeares. 5. Ed.  
21. Lam. 446.

Taking of hawks egges upon ones owne grounds or  
anothers, or any Elrer, or driving them out of their  
covert, or bearing any hawk of the breed of England;  
called a Nyeffe, Goshawk, Tassel, Lanner, Lanneret, to  
be imprisoned a yeare and a day, and lose ten pounds  
and the hawk. 11. Hen. 7. 17. Lam. 446.

Every Justice of Peace may examine the offences  
for hawking or hunting with spaniels in eared or cod-  
ded corne, and binde over the offender with sureties to  
the next Sessions. 23. Eliz. 10. Dal. 66. Lam. 447.

Against hawking at pheasant or partridge between  
the first of July and last of August, *vide* 7. Jac. 11. and  
Partridges.

*Vide plm* Larcenie, and Felonie.

## 100 Hay and Oats. Hedge-breakers.

Inholder taking any thing for litter, baking horse-bread, except in towne or village being a throughfare, and being no citie, town corporate, or market-town, the same to be of assize and weight after the price of corn and grain in the market, or still horse-bread, hay, oats, brans, pease, provender and all kinde of victuall, both for man and beast, for reasonable gain; for the offence,

1. Fined.
2. Imprisoned for a moneth without baile.
3. Stand on the pillorie without redemption of money.
4. Fore-judged for keeping Inne again. 21. Jac. 11.

### Hedge-breakers.

Breakers and cutters of hedges, pales, railes, or fences, cutters and carriers away of corne growing, robbers of orchards or gardens, pullers up of fruit trees, with intent to carry away, cutters or spoilers of woods, poles, or standing trees, convicted before a Justice by confession and one witnesse upon oath, are to render such damage as the Justice shall limit; and if not able, to be whipped by the Constable, who for default in his office, is to be committed without baile, till he cause it to be done. 43. Eliz. 7.

No Justice to proceed against such trespasses for offence done to himselfe, without instance of another. *ibid.*

The second offence is whipping. 43. Eliz. 7.

### High-ways.

One Justice may cause high-ways to markets to be enlarged, and cleansed of bushes and trees. 13. E. 1. 5. Dal. 67.

Every Justice may present upon his owne knowledge in open generall Sessions, any high-ways insufficiently

sufficiently repaired, or any default against the statute, 1. and 3. *Phil.* and *Mar.* 8. and 5. *Eli.* 13. and such presentment is as good as the presentment of twelve men; and thereupon the Sessions may assesse the same, though the presented be absent, saving to the offender his traverse. *Dal.* 67. *Cro.* 125. b. 195. a.

*The defaults contrary to these statutes.*

1. If the Constable and Church-wrdens doe not on Tuesday or Wednesday in Easter week choose surveyours for high-ways.

2. If six dayes bee not by them then appointed for mending high-ways before Midsummer.

3. If notice bee not given by them openly in the Church the Suunday after Easter of the said six dayes.

4. If he that hath a plow-land in tillage, or pasture, or draught, doe not for every draught or plow-land send one cart with two able men to work eight houres of every of the said six dayes, twenty shill.

And every other parishioner having five pounds in goods, forty shillings in lands in the subsidie, must find every day two able men, or lose ten shillings; and every cottage one, or lose twelve pence a day.

But 18. *Eli.* 9. he that occupieth a plow land in severall parishes, only where he dwelleth; and he which hath plow land in severall parishes, shall be charged in each towne. *Dal.* 52. *Cro.* 82. b.

5. If the carriages be not thought needfull by the surveyours, then two able men for every cart spared.

6. If fences, hedges, and ditches next adjoyning to the high ways be not kept low, scoured and repaired.

7. If all trees and bushes growing in the high waies be not cut downe.

8. If any chosen to be surveyours refuse the office, or doe not execute it.

9. If the surveyour doe not within one moneth

next after the offence committed present it to the next Justice.

10. If the Bailiffe or Constable who receiveth the estreats, doe not levie the same, or make not a true account and payment of all summes levied to the Constable and Churchwardens, or the Constables and Churchwardens have not employed them upon the high-ways.

If the surveyours do certifie the next Justice in a moneth, the Justice ought to certifie the presentment at the next Sessions.

If the surveyours present not till after the moneth, and the Justices doe certifie it at the next Sessions, it is not good against the offenders.

Two Justices, one being of the Quorum, may call those to whom the estreats are delivered, to their account, betwixt the first of March and last of April, and compel them to pay all such arrearages as they shall adjudge to the Constables and Churchwardens, or imprison them till payment of such arrearages be made, and call the surveyours, and Constables, and Churchwardens to an account.

All fines at the Sessions for high-ways, shall be levied by estreats indented by the Clerk of the Peace, and delivered by him within six weeks after Michaelmasse *Dal. 71.*

The Bishops Chancellor and three Justices of Peace, may examine the bestowing of any money appointed by any statute for the amending high-ways or bridges, and call to account the detainer thereof. *14. Eliz. 5. 39. Eliz. 18. Lam. 366.*

Upon enditement for repair of bridges in high-ways, there shall be like processe as the Kings Bench, useth, or such as the Justice of Peace thinketh meet. *32. H. 8. 5. Lam. 525.*

High-ways leading from one market towne to another,

other, shall neither have dike, underwood, or bush, whereby a man may lurk to doe hurt, within two hundred foot of one side or other: if default be in the Lord, and any robbery be done therein, he must be answerable for it; and the Lord of a park must set it two hundred foot from each side from the way, or a sufficient wall, dike, hedge, or pale, that the offenders cannot passe. *Dal.* 133.

## Homicide.

Homicide is the killing of a man by a man *Dal.* 274.

It is no difference whether the slain be alien, denison, or English man, if he lives under the Kings protection. *Dal.* 235. *Cro.* 21. a. *Lam.* 237.

To kill one attainted of treason or of felony, or outlawed for felony, or attainted in Premunire, is felony. *Dal.* 235. *Cro.* 24. a. *Stam.* 13. *quere.*

Homicide is either killing himselfe, *felo de se*, or another.

*Felo de se* forfeiteth to the King his goods and chattels, real and personall, and his debts due by speciall, *Dal.* 236. but no lands, nor blood corrupted. *ibid.* See pag 73.

His goods are not forfeited till his death. *ibid.*

Infant or *non compos mentis* doe not forfeit; but a lunatick killing himselfe out of his lunacie, doth forfeit his goods. *Dal.* 236.

Homicide of another is  $\left\{ \begin{array}{l} \text{Voluntarie,} \\ \text{Involuntarie.} \end{array} \right.$

Voluntarie is  $\left\{ \begin{array}{l} \text{Murder. vide Murder.} \\ \text{Manslaughter.} \end{array} \right.$

Manslaughter is when two fight together upon the sudden, without malice precedent, and one of them doth kill the other. *Dal.* 243. *Cro.* 26. a. *Lam.* 247.

Manslaughter  $\left\{ \begin{array}{l} \text{by Chancemedley, or} \\ \text{Se defendendo, his person, house, \& goods.} \end{array} \right.$

Manſlaughter by Chancemedley is felonie; but may have his clergie. *Dal.* 243.

One fighting breaks his weapon, a ſlander by lends him another, whereby the other is killed, it is manſlaughter in the lender. *Dal. ibid. Cro.* 26. b. *Lam.* 252.

Two fighting on the ſudden, part, and meet again, one killeth the other; it is a continued fray. *Dal. ibid. Cro.* 23. b. 24. a. 26. *Lam.* 250.

The ſervant fighting in his maſters defence, though there were malice in the maſter not told to the ſervant, *Lamb.* 248. ſo a ſtranger ſuddenly taking part. *Lamb.* 248.

Two that were in malice are reconciled, fall out upon new occaſion, and one is killed; it is manſlaughter only. *Dal.* 244. *Lam.* 250.

*Se defendendo*, when one killeth another in the neceſſary defence of himſelfe or his, thereby to ſave himſelfe or his poſſeſſions or goods, or ſome other perſons which he is bound to defend from perill, and it is either againſt a felon, as murderer or theefe, or a loyall ſubject. *Dal.* 249. *Lamb.* 252.

Againſt a loyall ſubject, if he be aſſailed by another man, he muſt flie ſo much as he may till hee be letted by ſome wall, ditch, hedge, preaſe of people, or other impediment, that his neceſſitie of defence may ſeeme inevitable, and hee ſhall bee committed till the time of his triall, loſe his goods, and ſeeke his pardon. *Lam.* 253. *Dal.* 250. It is not materiall though hee ſtrike againe, if before hee give any deadly wound hee flie to the ſtrike.

Neither is it materiall though there were former malice, unleſſe hee lye in wait for the other, or agree for the place of fight, or ſtrike the firſt ſtroke. *Lam.* 253. *Dal.* 250.

Or aſſaulted in his owne houſe upon a ſudden quarrell, or thereby killeth him, *Lam.* 254. but he forfeiteth his

his goods and must have his pardon, except the assaillant came with a felonious intent to kill or rob him. *Dal. 250 Cro. 28. 2. Lam. 254.*

A man falleth to the ground, there his flying to a strait is not necessary. *Dal. 251.*

An officer or minister of justice, in executing his office being assaulted, is not bound to flie. *Dal. 251. Cro. 9. 98.*

A servant killing him who robbed or killed his master, so it be done presently, or in defence of his masters person or goods, if it cannot otherwise bee avoided. *Dal. ibid. Cro. 28. 2. 21. H. 7. 39. Tremayle.*

Forrester, Parker, or Warrener, or any in their company, killing an offender in a Forreft, Parke, or Warren, after hue and crie to keepe the Peace, if they yeeld not themselves, or flie, or defend themselves by violence, is no felony. *Dal. 251. Quere if there bee no malice in the keeper. Cro. 30. 1. Dyer 327.*

It is justifiable by ne, my servants or company, to kill one who attempteth feloniously to murder or rob mee in my dwelling house, or in or neare a high-way, hoise-way, or foot-way, or burglarly to break my house in the night. *Dal. 250 Cro. 27. Vide Lam. 249.* If one entering by force in the day, and killing in the dark.

To shoot at him that commeth to burn my house, is justifiable in me or my servants, *Dal. ibid. Cro. ibid.*

In defence of the possession of my goods, I may justifie to beat him that wrongfully taketh them, but not kill him, except he be a theefe. *Dal. 251.*

To kill a true man, in defence of house, land, or goods, is manslaughter. *Dal. ibid. Cro. 20. b.*

Involuntary homicide is by Misadventure,  
? Necessitie.

By misadventure is, when a man doing a lawfull act, without any evill intent, killeth a man: this is not felonie of death, but hee shall have his pardon of course

Courſe for life and lands, but forfeſeth his goods. *Dal.* 245.

A ſchoolmaſter, father, mother, or maſter, correſting moderately his ſcholler, childe, or ſervant; Shooting at pricks, butts, or lawfull mark; A workman caſting ſyle, timber, or ſtone from a houſe, or any thing from a cart and giving warning, or doing other lawfull thing and giving warning.

Running at Tilt, or fighting at Barriers by the Kings command.

The killing of a man in doing of an unlawfull act, without evill intent, is felonie, as ſhooting arrows, caſting ſtones into high-ways or other place whither men uſually reſort. *Dal.* 246.

Fighting at Barriers, or running at Tilt without the Kings command.

*Quere* if playing at hand-ſword, bucklers, foot-ball, wreſtling, and ſuch like, whereby a man is ſlaine or receiveth hurt, and dieth within the yeare and day, be felonie of death, or may have their pardon of courſe. *Quere ſimiliter* of caſting a ſtone at bird or beaſt.

A man may be ſlaine by the fall of a houſe or tree, &c. and killed by a bull, bear, horſe dogge, &c. or by ſome fall which he taketh. *Dal.* 247. if it be through the wilfull default of another, it is felonie.

The thing which cauſeth the death is a *Deodand*, and ſo forfeited to the King. *Dal.* 247. *Cr.* 31. 2.

The forfeiture hath relation from the ſtroke given.

*Deodands* are not forfeited till the matter is found on record. *Dal.* 247.

The Jury which findeth the death of a man, muſt finde and appriſe the *Deodand*. It behoveth the towne to ſee it forth-comming; for the Sheriffe ſhall be charged with the price, and ſhall levy the ſame on the town. *Dal. ibid. Stam.* 21. *quod mirum.*

If the Quaine be under fourteene yeares of age, nothing



thing is forfeited as a *dead and*. *Dal. ibid. Stam. 21. &c.*

Homicide by necessitie is { Commanded,  
Tolerated.

An officer doth execution after judgement, according to his warrant; it is not properly homicide, but justice. *Dal. 248. Lam. 234.*

If the officer doth not observe order of law, it is felonie in the officer. *Dal. ibid. Lam. 234 Stam. 13.*

One warranted to arrest one indicted of felony, upon resistance killeth him. *Dal. ibid. Lam. 234.*

Every private person upon hue and cry to take a felon, if he resist and will not yeeld, may kill him.

Conductors of a felon to the Goal, upon resistance or fight may kill him. *Dal. 249.*

A prisoner in the Goal attempteth to escape, and striketh the Goaler, hee killeth the prisoner; it is not felony. *ibid.*

Riotters, forcible enterers or detainers, that shall resist the Justice of Peace, or other the Kings officers, and will not yeeld themselves, being slain, it is no felonie. *Dal. 249. Cro. 23. 30. b. 158. Lamb. 235.*

If an officer, by vertue of the Kings proceffe, arresting one for debt or trespassse, is resisted, and killeth the resister, it hath been taken to be no felony. *Dal. 249. Cro. 24. 30. b. Quere 4. rep. 40. 41. it is murder.*

In all these former cases there must be inevitable necessitie, that the offender could not be taken without killing. *Dal. 249.*

## Horses and Mares.

Any Justice may heare and take the claim of the owner of any horse, &c. which was stolen within six moneths after the sale thereof, the proove to be made by two witnesses upon oath within forty dayes next ensuing the said claim. *Dal. 73. Lamb. 203. 31. Eliz. c. 12.*

The Justice of Peace may minister an oath to the buyer

griffet, Currier, Sadler, Spurrier, Turner, Bowyer,  
Saddler, Coach-maker, Blacksmith, Clock-maker, Miller,

## 108 Horses and Mares.

buyer what money he paid, *boni fide*, so as the right owner repaying his money may have his horse again. *Dal. ibid.*

Owner, officer, or ruler of any faire, is to appoint an open place for sale of horses, &c. and a sufficient person to take toll, or lose forty shillings for every fault, and answer the partie grieved. 2. 3. *P. & M. c. 4. Lamb. 471.*

The sale of every horse not being according to the statute in every point, is void. *Dal. 73. Lamb. 472.*

1 The horse must be one houre at the least in the place of the open faire.

2 All the parties to the bargain being in the faire, must come with the horse to the book keeper.

3 The book keeper must take perfect knowledge of the seller and of the voucher, of the Christian name, surname, mystery, and place of dwelling.

4 The voucher must know the seller indeed, and declare to the book-keeper the Christian name, surname, mystrie and dwelling, as well of himselfe, as of the seller.

5 The book-keeper must make a true and perfect entrie of the sellers name and place of dwelling, &c. and of the true price, forfeiture. 31. *El. 12.*

Every contract for a stolen horse out of the faire is void, though it be after booked. *Dal. 74.*

A sale in open market shall not take away the owners propertie, the buyer knowing that it was anothers. *Dal. ibid.*

All horses, and all other goods, are to be sold in such a place or shop as is commonly used for the selling of goods of the same kinde, to alter the propertie *Dal. ibid.*

A theefe selleth a stolen horse by a false name, and is so entred in the toll-book; such misnaming maketh the sale void against the owner. *Dal. 74.*

Horse.

## Horse-bread. Hospitall. House. 109

Inholder in a corporate or market Towne, where there is a common baker that hath been an apprentice therein seven yeares, may not make horse-bread within his house 32. 4. 8. 41. 21. *lac. 21.*

Inholder or offler in a thorow-fare towne, being no citie, towne corporate, or market town, being a baker, and one that hath been an apprentice therein seven yeares, may make horse-bread within his house. 21. *lac. 21.*

The horse-bread must be sufficient, lawfull, and of due assize, according to the price of corne. 21. *lac. 21.*

- Penaltie {
- 1 Fin.
  - 2 Imprisonment for a moneth without baile.
  - 3 Stand in the pillory without redemption of money.
  - 4 Forjudged for keeping Inne againe.
21. *lac. 21.*

*Vide* Inne holder.

## Hospitall.

The Bishop and Chancellour, with two Justices of Peace next inhabiting, may charge the collectors of a revenue of an Hospitall, upon a paine, presently to account and to employ the surplussage to the use of an Hospitall. *Lamb. 556. 14. Eliz. Ca. 5. 39. Eliz. 18.*

Hospitalitie; *vide* Religious house.

## House.

- 1 A mans house is his castle for defence. *Dal. 305.*
- 2 It protecteth against any arrest at the suit of any subject. *ibid.*
- 3 In some cases it is a privilege against the Kings Prerogative;

## 110 House of Correction.

Prerogative; for it hath beene adjudged that *Salt* peter men may not digge in a Mansion-house without the Kings consent *ibid.*

Theeves or murderers attempting to rob or murder a man in his house, he may assemble company and kill any of them, and forfeiteth nothing. *ibid.*

He may beat him that will enter upon his possession, but may not kill him. *Quare* if he may hire strangers to aid him, or put his ordinary company in armour, *Dal.* 205.

*Vide plus* Homicide.

## House of Correction.

House of Correction with implements and backfides fitting for setting on work idle persons, to be erected and provided in a convenient place in every Countie before Michael. 1611. the same to be conveyed over to such as by the greatest part of the Justices at the quarter Sessions shall be chosen to be imployed for setting on work idle and disorderly persons, on pain of five pound for every Justice of Peace, the one moytie to the informer, the other towards the erecting of the house. 7. *Inc.* 4.

Master of the said house to be appointed by most of the Justices of the Q. Sessions, next after providing of the said house, who is to set on work, and moderately to correct by whipping or fettering such persons as shall be sent to him. 7. *Inc.* 4.

Constables shall appeare before the Justices of Peace twice in the yeare, and give account upon oath in writing, under the hand of the Minister, what rogues have been apprehended, and how many punished. 7. *Inc.* 4.

Master of the house of correction giving sufficient securitie for performance and continuance of his service, is to have yearely such money as by most of the Justices

## House of Correction, III

Justices at Q. Sessions shall bee thought meet, to bee paid quarterly by the Treasurer, or else the master to levy it in such sort as the Treasurer may. 7. *lac.* 4.

Constables not safely conveying to the house of correction such as by the Justices of Peace at their meeting for the execution of the statute, 7. *lac.* 4. shall be sent thither, to pay such fine under forty shillings, as by most of the justices shall be assessed. 7. *lac.* 4.

A woman, having a bastard which may be chargeable to the parish, for the first offence to be sent to the house of correction one yeare, for the second offence to be sent to the house of correction, and to remaine there till shee find sureties for the good behaviour, and not to offend so again. 7. *lac.* 4.

Any able to work, and threatning to run away, and leave their families upon the parish, upon oath of two witnesses before two Justices of the said division, to put in sureties for discharge of the parish, or to be sent to the house of correction. 7. *lac.* 4.

Master of the house of correction quarterly at the Sessions must yeeld account of such as have been committed, or is to be fined by most of the Justices. 7. *lac.* 4.

If any committed become troublesome to the country by going abroad, or escape without lawfull delivery, the master is to be fined by most of the Justices at the Q. Sessions. 7. *lac.* 4.

All penalties not limited by the statute, 4. *lac.* 4. shall be paid to the Treasurer, and accounted by him. 7. *lac.* 4.

*Vide plus Poore people.*

## Hunting.

One Justice of Peace, upon information of any unlawful hunting of Deere or Conyes by night, or with painted faces, or other disguising in forest, park, or  
warren,

warren, may make warrant to the Sheriffe, Constable, Bayliffe, or other officer, to take the partie suspected, and to bring him before him, or some other Justice, to examine him thereof: and if he conceal the hunting, or any offender with him therein, the concealment is felony in the concealer, but the truth confessed is but hneable at the next Q. Sessions. 1. H. 7. 7. *Dal.* 176. *Lam.* 191.

To disobey such a warrant, or make rescous thereupon, is felony. 1. H. 7. 7. *Dal.* 176.

The Justice of Peace that taketh examination of the offender, may after the examination binde the offender to his good behaviour, to the end he be forthcoming till the offence and the offenders bee lawfully examined. *Dal.* 176.

Unlawfull hunting by three or more will prove a rior. *Dal.* 176.

Any by night or day wrongfully entring into any inclosed ground, kept for keeping of Deere or Conyes, and there chasing or killing of them, upon conviction to be imprisoned three moneths without bayle, and there to continue till he pay treble damages and costs to be assessed by the Justices before whom he is convicted, or pay to the party grieved ten pound at the election of the partie grieved. 7. *Iac.* 13. and finde suretie for his good behaviour seven yeares. 3. *Iac.* 13. *Lamb.* 449.

The party grieved, or the Justice of Peace, upon satisfaction of the partie grieved, and confession of his offence, and that he is sorry for the same, in open Sessions may release the offender of his bond for the good behaviour. 3. *Iac.* 13.

The statute 3. *Iac.* 13. doth not promise offenders in parks or inclosed grounds made after the statute, with out the Kings license. 3. *Iac.* 13.

Enquiring, hearing and determining of offences  
against

against the statute 3. *1ac.* 13. may be made by the Justices of Peace and Goal-delivery at the Sessions, and they may award processe upon enditements, informations, bills of complaint, or other actions wherein no essoin, &c. 3. *1ac.* 13.

Any not having lands of inheritance in his owne or wives right, of the cleare yearly value of 10 po. or for term of life of 30 po. *per annum*, or goods to his owne use worth 300 po. keeping Greyhound to course deer or hare, except the son of a Knight or Baron of parliament, or son and heir of an Esquire, upon conviction by confession or oath of 2 witnesses before 2. l. of P. where the offence is, the party apprehended to be imprisoned 3. moneths without bayl, except he presently pay to the Churchwardens where the offence was committed or party apprehended, 40 shill. to the use of the poore of the said parish. 1. *1ac.* 27.

Any having lands intee simple or tee rayl of 100 po. *per annum*, finding any not having lands of 40 po. *per annum*, nor worth 200 po. in goods, to use any gun, bow, dogs, or engines for killing of deer or hare, except parker or warrener, or owners of either of them, or other grounds inclosed for deer or conyes, that shall be yearly worth 40 shill. may take any their guns, bowes, engines and dogs, and keep them to his owne use, 3. *1ac.* 11.

Lay person not having in lands 40. *per annum*, spiri-  
tuall person a benefice not 10 po. *per annum*, keeping dogs to hunt, or using ferrets, &c. shall bee imprisoned for a yeare. 13. *R.* 2. 13. *Vide Parks.*

## Hundred.

Hundred with the liberties therein to bee equally taxed by 2 Justices of Peace, one to bee of the *Quorum*, in or neer the hundred, for relief of those that are robbed. 27. *Elis.* 13. *Da.* 132.

## 114 Hundred. Hue and Crie.

The robbed shall not have his action upon the statute of 27. *Elif.* 13. except he first with all speed convenient give notice of the robbery to some inhabitant near the place where he was robbed.

2 Commence his suit within a year next after such robbery committed.

3 Hee being examined upon his oath within 20 dayes next before such actions brought by one Just. where the robbery was committed, dwelling near to the hundred, if he knew the robbers or any of them.

If he knew any of the robbers before such action, he shall be bound before the said Justice to prosecute the offenders effectually by enditement, or otherwise by course of law. *Dal.* 131.

The hundred must answer the losse, if the robbers bee not taken within 40 dayes. *Dal.* 131. 291. *Cro.* 179. a.

A man is slain out of a town, and the murderer doth escape, the hundred shall be charged therewith. 291.

Jurie of one hundred may present an offence done in another hundred. *Lam.* 399.

### Hue and Crie.

For the apprehending of homicides, burglars, robbers, and other felons, hue and crie shall be made, and every man shall follow the hue and crie; and hee that doth not, shall be attainted to appeare before the Justice of goal-delivery. It seemeth any Justice of Peace may binde him over by the commission. *Dal.* 291. *Cro.* 179. b.

Hue and Crie ought to be made from town to town, from countrey to countrey, by horsemen and footmen, 13. *Ed.* 1. 12. 27. *El.* 13. *Dal.* 75. *Cro.* 178. b. 179. and upon committing of any robbery or felonie, the Officer of the town where it was done, ought to send hue and crie to every town round about him. *Dal.* 75. *Cro.* 178. b.

Every



## Jesuites & Seminarie Priests. 115

Every Justice of Peace may cause hue and crye fresh suit and search to be made upon any murder, robbery, theft, or other felony committed, by force of the first assignatus, Dal. 75. Lam. 185.

By a false hue and crye to enter into any house with the Constable, to binde and rob the Constable and master of the house in the night, is burglarie. Lam. 263. *Vide plus* Robberie.

## Jesuites and Seminary Priests.

**A** Ny Justice of Peace within the countie in which any Jesuites, Seminary Priests, or other Priests, Deacons, religious or Ecclesiasticall person shall arrive or land, may within three dayes after take the submission, oath, and acknowledgement of him touching his obedience to the King and lawes provided in cases of religion. 27. El. 2. Lam. 198. Dal. cap. 45. 105.

Every one understanding that any such Priest, &c. shall bee within any of the Kings dominions, ought to discover the same to some Justice or other superiour officer, within ten dayes after such knowledge, under the paine of fine and imprisonment; and the Justice within 28. dayes must give information thereof to one of the privie Councell, on pain of 200 marks. 27. El. 2. Lam. 198.

Two Justices of Peace of the Countie where any of the Kings Subjects that are no Jesuites, &c. brought up in any Colledge of Jesuites, or in Seminaries, shall arrive within six moneths after proclamation made to that end, may within two dayes after their returne take their submission under the oath of allegiance. 27. El. 2.

To receive Jesuites or Seminarie Priests, contrarie to the statute, is felony. 27. El. Lam. 4. 4.

Any within three dayes after the offence committed,

ted, discovering to any Iustice of Peace any Recusant, Seminarie, or Popish Priest, or any Masse to have been said, any of them then present there, and by reason of his discoverie any offender bee taken and convicted, shall be freed from the danger of the offence, and have the third part of the forfeiture by such offence.  
*3. Jac. 5. Lam. 199. Dal. 106.*

Imprisonments, *vide* Prison.

Indictments, *vide* Enditements.

## Information.

Information against a felon, whether he shall be taken by oath or no, is uncertain : but *Lamb. 213, 214, 215.* and *Dal. 299.* and *Cro. 194. 2.* doe best allow it by oath.

No proces can bee awarded upon information of a private person, unlesse where the statute particularly warranteth inquirie by information, as the statute of *5. Elis. 4.* of labourers, *5. Elis. 21.* of taking of fish, deer, or hawks.

Information of such as bring a felon, must be taken by a Iustice of Peace : so much thereof as is materiall hee must put in writing within two dayes after the examination. *Dal. 295. Lamb. 212. 2. & 3. Ph. & Ma. cap. 10.*

Two informe against another in matter of felonie, and doe varie in their talkes, *viz.* in the day and place when and where it was committed ; such information is not to bee credited. *Dal. 297. Cro. 100.*

The bringer of the suspected will not informe, it is meet to binde him over to give evidence. *Dal. 298.*

Forme of a recognizance for the informer against a felon, *Lam. 214, 216.*

Infor-

## Informers and Promoters.

Informers compounding for any offence against a penall law, without consent of some of the Court of Westminster, or willingly delaying or discontinuing a suit, loseth 10 pound, and is to stand in the pillorie being convict thereof at the Quarter Sessions. 18. Ed. 5. 27. El. 10. Lamb. 439, 609.

## Ingrosser.

Ingrosser is hee that by any contract (unlesse by grant of land or tithe,) buyeth corne on the ground or other dead victuals, to the intent to sell them again, except buyers of barley or oats, to make malt or oat-meale. Victuallers not forestalling, Badgers and Drovers not abusing their lawfull licence, buyers of forrein commodities, except fish and fait, are accepted. 5. Ed. 6. 14. 5. Elis. cap. 12. 13. Elis. 25. Lam. 451.

## Inneholder.

Inneholder taking any thing for litter, or excessively for hay, or above a halfe penny a bushell above the market for oats, loseth foure times the value of the overplus. 13. R. 2. 8. 4. H. 4. 25. Lamb. 473. repealed. 21. Jac. 21. *Vide plus* Horse-bread.

Inneholder or Alehouse-keeper may be compelled by a Constable to lodge strangers. Dal. 28. edit. 1626.

Inneholder that suffereth a non-inhabitant to tipple in his house, shall incurre the penaltie limited, 1. Jac. 9. 1. Caro. 4.

Innekeeper, taverner, victualler, is within the statute, 1 Jac. 9. 4. Jac. cap. 4. 5.

Inmates, *vide* Cottages.

## Inrolment.

One Justice of Peace may joyne with the Clerk of the Peace in taking of an inrolment of an indenture of bargain and sale of lands, &c. lying in the same Countie, 11. H. 7. 15. and is to have 12 pence if the land exceed not in value 40 shillings a year; and if it doe, then 2 shill. 6 pence; and taking above, fined. 27. H. 8. 16. Lam. 196, 369; 393 436.

## Issues.

The Sheriffe that gathereth other estreats of issues then of right are due, forfeiteth 5. marks to the King, as much to the partie. 27. Elis. 7. Cro. 201. Forfeitures of issues by jurors are to bee levied by Records of execution awarded by the Justice of Peace. 27. Elis. 7. Lam. 585.

## Judgement.

Ambiguities arising in judgement, the Justice of Peace shall forbear to proceed till the Judges come; but if they will proceed, the judgement is not void but must be reversed. Lam. 568.

Where the statute appointeth a punishment, there judgement must bee according to the statute upon trespassse, riots, and such other offences: where no forfeiture is prescribed, judgement is to be taken and ransomed. Lamb. 570.

*Vide plus* the severall offences.

Juglers, *vide* License.

## Jurors.

Jurors both for enquirie and triall, ought to bee *Probi & legales homines*. Lam. 396.

*What*

*What persons may not bee jurors, and being jurors make presentments void, unlesse there bee twelve besides.*

1 Attainted in conspiracie, 2 Attaint, 3 *Deciesantum*, 4 Subornation of perjury, 5 Concealment, &c. and their presentment void, unlesse there bee twelve besides them that are not blemished. *Lam* 396. 6 Outlawed, 7 Abjured, 8 Condemned in a *Premunire*, 9 Attainted of treason, 10 Felonie, &c. *ibid*. 11 Women, 12 Infants under 14 years of age, 13 Aliens, 14 Clergicmen. *ibid*.

Jurors must be inhabitants or freeholders within the Countie, to the value of 40 shillings *per annum*, but in Cities and Boroughs to the value of 40 shill. in goods. 369, 397.

Jurors for trial of an indictment within the Countie Palatine of Lancaster must have 5 pound *per annum*. *ib*.

Juror 70 years old or decrepit, returned by the Sheriffe must serve if the Iustice will; but he may sue the Sheriffe upon the Statute of *Westminster*, 2. 38. *Lam*. 397.

Juror exempted by Charter with these words, *Licet tangat nos*, is to bee discharged upon his appearance, but he ought to shew it to the Sheriffe. *ibid*.

When there is want of sufficient Jurors, no exemption can discharge. *ibid*.

Presentment is good though some of the Jurors bee allyed to him that procureth the presentment: but it is no discretion in the Iustice to suffer any such to be impannelled. *Lam*. 398.

If the particular Jurors for the hundred cannot bee supplied by those of the hundred, it is better to take *Tales de circumstantibus*, of other hundreds, than to bee renewed with a *Tales* from Sessions to Sessions. *La*. 398.

Jurie of one hundred may present an offence done in another hundred. *Lam.* 399.

Iustices may command the Sheriffe to alter the pannel, and hee refusing forfeiteth 20 pound. *ibid.* 3. *H. 8.* 12.

All the jurors must bee sworne, otherwise their presentments are void: but the Record being that all the jurors were sworne, the presentments are good though all be not sworne *Lam.* 399.

Juror after he is sworne, upon cause may bee removed by the Iustice. *Lam.* 400. 20. *H. 6.* 5.

Jurie after swearing adjourned to another time, may be then sworne again. *Ibid.*

Jurors of enquire must bee 12, but there may bee more, and it is best to have them odde. *Lam.* 400. *ibid.*

If 12 jurors doe agree, the residue cannot gainsay, *Ibid.*

Juries of enquiry ought not to bee committed to a keeper, nor kept without victuals, nor carried out of the town, but may bee adjourned to another place to give up their verdict. *Lam.* 400.

Jurors which doe wilfully conceal offences presentable, and which bee complained of by bill, may be enquired of by persons whereof every one may dispend 40 shillings *per annum*; and such concealment being found within a yeere after, every juror shall bee amerced in open Sessions. 3. *Hen.* 7. 2. *Lamb.* 400, 401.

Jurors that discover what they have done, are to bee fined *Lamb.* 402.

Juror taking any thing to make a favourable presentment, shall be imprisoned and ransomed. *Lam.* 441. *Cre* 84. 2.

No juror to be returned without an addition whereby he may be known. 27. *Elis.* 7.

*Vide plus Challenge.*

## Justices of the Peace.

12

Justices of Peace were created 1. *Ed. 6. 3. 16. Dal. 6. Lamb. 20.*

Justice of Peace is Justice of Record. *Dal. 7. Cro. 120. a. Lam. 62.*

He may take a recognizance of Peace, which none can doe but a Judge of Record. *Dal. 8. Lam. 186. Cro. 196.*

His warrant is not dispurable by the Constable. *Dal. 8. Lam. 65. Cro. 147. b.* but it is to be understood when the Justice of Peace hath jurisdiction of the cause. *Dal. 8. Cro. 147. b. Lam. 65. 91.*

His testimonie in some cases is of as great force, and in some cases greater than an indictment of 12. men upon oath, as in the cases of force, riots, presentments of high-ways. *Dal. 9. Lam. 65.*

The authoritie granted to Justice of Peace by commission doth determine by death of the King, or at the Kings pleasure. As to be discharged by writ under the great seale. 1. By *Superfedeas*. 3. By granting a new commission and knowledge thereof. *Dal. 11. Cro. 188. a. Lam. 66.*

2. By publishing the new commission at Assizes or Sessions, or any countie court.

3. By holding open Sessions by vertue of the new commission. *Dal. 11. Cro. 188. a. Lam. 69.*

Exercising the office of a Justice of Peace before oath taken, is finable. *Dal. 14.*

Justice of Peace hath not authoritie but in the countie where he is Justice. *Dal. 23.*

Justice of Peace is not to meddle with offences done out of the countie. *Dal. 23. Cro. 120. b.* except some statute enable him, or some matter of Peace or Felonie. *Dal. 23.*

Justice of Peace is not to intermeddle in any citie or corporation, which have their proper Justices. *Dal. 23. Cro. 8. a. 181. b. 189. a.*

Justices

Iustices of Peace ought not to execute their offices in their owne case. *Dal.* 344. *Cro.* 68. a. Yet a Iustice of Peace being assaulted, may commit the offender to prison. *Dal.* 158. *Cro.* 68. a. *Lam.* 134.

So *Crompt.* thinketh that a Iustice of Peace may record a forcible entry made upon his owne possession, and commit the offender. *Cro.* 67. b. 68. a.

Iustice of Peace chargeth one that maketh an assault or affray, to keep the Peace; who answereth hee will not; the Iustice of Peace may binde him to his good behaviour. *Dal.* 191.

Iustice of Peace must proceed by the prescript of the commission and statute. *Dal.* 20.

Where the statute referreth the triall, &c. to the Iustice of Peace his discretion, it seemeth he may examine upon oath. *Dal.* 22.

One Iustice of Peace ought not to binde ene to appeare at the Qu. Sessions to answer his fault committed against a penall law, except the statute of Labourers. *Lam.* 187.

Every Iustice of Peace is a conservator of Rivers within his Countie *Lam.* 189.

Iustice of Peace not giving remedy to the partie grieved in a cau'e that may be heard, determined, and executed by him, upon complaint to the Iudges of Assize, or the Lord Chancellour, is to bee put out of commission by the Lord Chancellour, and punished according to his desert. 4. *Hen.* 7. 12. *Lam.* 370.

One Iustice of Peace may command fresh suit, hue and cry, and search to be made by officers and others, after thefts, robberies, enioyne watches for the arresting of suspected persons and night-walkers, highways to be enlarged, that two Constables be chosen in every hundred, forbid faires and markets in Churchyards, command all between 15 and 60 to bee sworn to the peace, charge the Constable to arrest all such



## Justices of the Peace. 123

as bee suspected to bee drawlatches. *Lamb.* 185.

Justice of Peace taking bond in his owne name, and not *Domino Regi* in a cause touching the King, is to be imprisoned. 33. *Hen.* 8, 39. *Lam.* 102. 143.

Justices of Peace at their Sessions are of equall authoritie. *Lam.* 385. *Vide Cro.* 122 a. 33.

The authoritie of a Justice of Peace doth cease, 1 by the Kings death; 2 by the expresse will, *viz.* by writ under the great Seal, or *superfedeas*; 3 by being left out of the commission; 4 by accession of another office, as being made Sheriffe, or Coroner of the countie. *Dal.* 11. *Cro.* 121. a. 14.

Justice of Peace must send his prisoners to the common goal. *Lam.* 133. 5. *H. 4. c.* 10.

A felon is brought before a Justice of Peace upon suspicion, though it appeare to the Justice hee is not guiltie, yet he may not set him at libertie, but so as he may come to his triall, *Dal.* 260, 305, 242. *Lamb.* 233. *Cro.* 40. b. 100. b. otherwise it will prove a voluntary escape in the Justice; for he is not to bee delivered by any mans discretion. *Dal.* 8. *Lam.* *ut supra.*

A man is arrested for felonie by a Constable or other, who afterwards hath knowledge that there is no such felonie done, the opinion of *Keble* was that hee might set him at libertie: but if one bee killed, and another bee arrested for suspicion, though after hee know the arrested is guiltlesse, or was arrested for malice, hee ought not to set him at liberty, but must bee delivered by course of law, otherwise it is felonie. *Cro.* 40. 13. *H.* 7. 7.

*What things a Justice of Peace ought to doe  
ex officio.*

Record a demurrer upon the evidence. *Lamb.* 539.  
Give

Give day to the party to bring in a Record that is before other Iustices, which is pleaded by way of justification. *Lam. 534.*

If thinking an enditement to be void, they have discharged the prisoner paying his fees; yet (upon change of their opinion) they may stay him any time before judgement. *Lam. 540.*

Justices of Peace ought not to suffer the King to bee disadvantaged, if they may lawfully prevent it. *Lam. 540.*

In absence of the Kings Attorney, the Iustice of Peace may take issue with one that pleadeth a pardon, that he is one of the parties excepted. *Lam 540.*

Iustice of Peace cannot acquit felons of proclamations; but if no prosecution be, they are to keepe them till the coming of the Iustice of goal-delivery. *Lam. 550.*

Iustice of Peace may enquire of all manner of felonies at the common law, or given by any statute, and of all manner of trespasses done against the peace of the King, and of such trespasser wherein action of the case will lie for trespassse or deceit; for in the end of the writ grounded upon the case is contained *contra pacem nostram. Cro 8. a.*

One Iustice of Peace rebukes another; neither he, nor any of his fellow Iustices, can commit him, for all are by one authoritie: but if one Iustice abuse another in open Sessions, it seemeth the rest may binde him to the Peace. *Cro. 122. a. Fitz. 32, 92.*

Defaults against the statute 3. *Ed. 6. 11.* for levying of wages for Knights of the shire, are to be heard and determined by enquire for the King, or action for the partie before the Iustice of Peace *Lam. 512.*

Labou-

**O**ne Justice of Peace may cause all artificers and other persons meet to labour by his discretion, to work by the day in hay and corn-harvest time, or imprison the refusers in the stocks for two dayes and one night. *5. Elis. 4 Dal. 78.*

The Constable refusing to stock them loseth 40. shillings.

One Justice of Peace under his hand and seale may licence labourers in hay and harvest time to goe into another countrey to work. *Dal. ibid.*

One Justice of Peace upon complaint may compell meet persons to be bound as apprentices to husbandry or any other art, &c. and for refusall commit them to ward, there to remain untill they be bound to serve according to the statute. *Dal. 78. 5. Elis. 4.*

One Justice of Peace may take order betwixt the master and apprentice, for want of conformitie in the master, bind him over to the quarter Sessions, where foure Justices, one being of the Quorum, may discharge the apprentice: and if fault be in the apprentice, inflict due correction, *Dal. 78.* but if the first Justice finde fault in the apprentice, he may by *7. Jac. 4.* send him to the house of correction as an idle disorderly person. *Dal. 78. tamen quare.*

One Justice of peace may allow of the cause of putting away of a servant, or of his departure within his term. *Dal. 79.*

But an apprentice must be discharged by 4. Justices of Peace in open Sessions. *ibid.*

One Justice of Peace may command vagrant persons to prison if they will not serve. *Dal. 83.*

One Justice of Peace may make his warrant to attach a servant departing, to be at the Sessions, or may send him to the house of correction. *Dal. 79.*

Two Justices of Peace, upon complaint that a servant departed before the end of his term (except 1. cause be allowed

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allowed by one Justice of Peace; or 2. at the end of his term, without one quarters warning before two witnesses; or 3 hath refused to serve for the wages appointed according to the statute; or 4 hath promised to serve accordingly, and doth not) may examine the matter, and may commit without bail such faultie person till he be bound to serve and continue, and then he is to be discharged without fee to the goaler. *Dalt.* 79. *Lamb.* 350.

Two Iustices of the Peace may imprison the master for 10 dayes without bail, and the servant for 21 dayes, that giveth or taketh greater wages than are allowed by statute. *Dal.* 80. *Lamb.* 330.

All retainer, promise, or payment of wages, or any other thing contrary to statute, and every writing and bond for the purpose is void. *Dal.* 80. 5. *Eliz.* 4.

Two Iustices of Peace may imprison for a yeere or more any servant, workman, or labourer, that doth make assault or affray upon his master, or any that hath the charge or oversight of them or of the worke, being proved by the confession of the partie, or oath of two. *Dal.* 80.

Or the Iustices at the Sessions may inflict other punishment.

One Iustice may binde the offender to the good behaviour, and so to the next Sessions. *Dal.* 80. *Lam.* 330, & 473.

Two Iustices may compell any woman of the age of 12 and under 40 being unmarried, to serve by the yeer, week or day, for such wages as they shall thinke meet, or commit her to ward till she be bound. *Dal.* 61. *Lamb.* 330, 331.

The retainer of any to serve in the arts of clothing, Wooll-weaver, Tucker, Fuller, Cloth-worker, Sheerman, Dyer, Hosier, Taylor, Shoe-maker, Tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Farrier,

the offender to the King or his  
some magistrate, but on cert. fine  
Stam. 31. Term & Law 11.

## Labourers and Servants: 127

Farrier, Currier, Sadler, Spurrier, Turner, Bowyer, Fleecher, Arrowhead-maker, Butcher, Cook or Miller for lesse than a yeere, is void. *5. Elis. 4. Lamb. 473.*

Any unmarried or under thirtie yeers and married, are compellable to serve in any of the said arts, or to be imprisoned untill they will serve, *5. Elis. 4.* upon request of any person using the said trades, except the person bee lawfully retained with some other, or have 40 shill. *per annum* in lands, or 40 pound in goods, or some farm in tillage. *Dal. 81. Lamb. 473.*

None retained in husbandry to depart at his time into any other limit without testimoniall on pain of 20 dayes imprisonment, and to bee whipped, if then he brings none; and receiver of such loseth 5 pound. *Lamb. 474. Dal. 86.*

Labourers not working so many houres as they ought, lose a penny an houre. *Lamb. 474.*

Servant falling sicke, or *non potens corpore*, the master may not put him away, nor abate his wages. *Dal. 85.*

Any taking work by great, and departing unlawfully before the work bee finished, loseth 5 pound, and is to be imprisoned for a month. *Lamb. 474.*

Any taking an apprentice contrary to order of law, or exercising an Art not being Apprentice therein 7 yeeres, loseth 10 pound. *5. Elis. 4. 5. Lamb. 475.*

Servant departing into another shire, is indicted for it in the Countie whence he departed; the Iustice of Peace may award a *Capias* to the Sheriffe of that shire whereunto he departed, returnable before themselves. *5. Elis. 4. Lamb. 525.*

The sufficiency of the cause of the masters putting away of his servant, or the servants departing from his master within his term, must bee proved at the Q. Sessions. *Lamb. 610.*



Hous-

Household servant spoileth the goods of his deceased master, & after proclamation in the Kings Bench maketh default of appearance there; it is felony, but not enquirable by the Justice of Peace. 33. Hen. 6. 1. *Law.* 281, 548.

A man not able nor sufficient to keep a servant, doth retain a servant; such retainer is void. *Dal.* 84.

Retainer of a servant in husbandry without expressing any terme, shall be for one yeare, *Cro.* 184. *Dal.* 64. It is according to the statute, 5. *Elis.* 4.

One retaineth a servant for 40. daies, and afterwards another retaineth him for a yeare; the first retainer is void. *Cro.* 184. 2. *Dal.* 84.

A servant cannot be discharged by his master without his owne agreement, or for some cause allowed by a Justice of Peace. *Dal.* 85.

An apprentice cannot bee discharged by his master but by writing, for an apprentice cannot be but by writing. *Dal.* 85. *Cro.* 184. b. 185. b.

A servant put away shall have his proportionall wages for the time he served, but it must be by the helpe of a Justice of Peace. *Dal.* 85.

A servant of his owne accord departing from his service, loseth all his wages. *Dal.* 85.

A servant refusing to do his service, it is a departure in law, though he stay still with his master. *Dal.* 85.

Detaining of wages, or of meat and drinke, is good cause of departure, but to be allowed by a Justice of Peace. *Dal.* 85. *Cro.* 185. a.

A woman married after shee is retained, must serve out her time. *Cro.* 184. b. *Dal.* 83.

No servant in husbandry, artificer, or victualler, nor any labourer, shall carry any buckler, dagger, or sword, on paine to forfeit the same, but for defence of the Realm, or travelling with their master, or about their masters businesse. 12. R. 2. 6. *Cro.* 185. b.

Any

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Any two Iustices of Peace may give their consents with the Churchwardens and overseers, or to the greater part of them, to binde as apprentices the children of poore parents, till the age of the man-child of 24. and of the woman till 21. 39. *Elis.* 3. *Lamb.* 331, 43. *El.* 2. *Dal.* 83.

Retainer according to statute, though no wages be spoken of, is good, and shall have wages according to the proclamation *Dal.* 84.

Retainer not being according to statute, is void, except it be by Indenture. *Dal.* 84.

Retainer upon condition is good. *Dal.* 84.

Retainer without expressing in what office, is good. *Dal.* 84.

Retainer for life is good. *Dal.* 84.

Retainer for a yeare to serve when he shall be required, is not good. *Dal.* 84.

By retainer the servant is presently in service though hee come not into his masters service indeed. *Dal.* 85.

The executour (the master dying) must pay wages to the servant hired according to statute, not otherwise, except it be by Indenture. *Dal.* 85.

## Larceny.

Larceny is the felonious and fraudulent taking another mans personall goods, removed from his body and person, without his will, to the end to steale them. *Lamb.* 272. *P. R.* 129.

Personall goods are { Wholly anothers } Dead,  
 { His own, yet } Alive.  
 { also a party in another.

K

Dead

Dead goods, { In their owne nature chattels, as money, plate, household-stuffe, *Lamb.* 273. wooll severed from the sheeps backs, to take the skinne and leave the body, the flesh of tame or wilde fowle or beast, 275. goods of the Church, parish, or of an unknown person, 276.

{ Once no chattels, and made chattels by the owner, as mowed corn, mowed hay, wood felled, apples gathered, &c. 273, 276.

Alive, { Tame, as herfes, beasts, sheepe, swine, pullen. 273, 274.  
 { Wilde, and made tame by { Art, Restraint of libertie.

By art, { A tame deere by common law. 275.  
 as { By statute a falcon, rarceler, lanner, lan-  
 neret, lost without bringing it to the Sheriffe to be proclaimed. 274.

By restraint of their libertie, as young pigeons, young herons, young hawkes out of their nest, fish in a trunk, stew, or pond. 274.

Amans { Where hee hath given a speciall proper-  
 own goods, { tie to another, as by bailment, pawn-  
 ing, &c. and feloniously taketh it againe, 277.

{ Where one comming lawfully to the pos-  
 session, by lending altereth the proper-  
 tie, as by melting of borrowed plate,  
 and the lender taketh the metall feloniously. 277.



*In what goods Larcenie cannot be committed.*

In goods of { Profit,  
Pleasure.

Goods of profit, as where is { An owner: and they are { Reall,  
Personall.  
No owner, as treasure, trove, wrecked, strayed *Lam.* 276.

Reall are { Distinct from the freehold, as charter of land or award. *Lam.* 275.  
Annexed to the freehold as apples on the tree, a tree growing, lead from a house or from a Church, *Lam.* 276.

Personall, as wilde things using their wildenesse, as pigeons flying, hawks not reclaimed, fishes in the river, *Lam.* 274. *Dal.* 264. pheasants, partridges, hares, conies, herons, swans, or deer that are abroad. *Lam.* 275.

Goods of pleasure, as dogs, apes, parrots, singing birds, a diamond, rubie, or other stone not set in gold or silver. *Lam.* 275.

Larcenie is { Grand larcenie,  
Pettie larcenie.

Grand larcenie is, where the thing stolen is above the value of 12 pence, and is punishable by death. *Dal.* 258.

Pettie larcenie, if the thing stolen exceed not 12 pence, and is punishable by the discretion of the Justice before whom he is arraigned, and forfeiteth his goods. *P. R.* 129. *Dal.* 258.

Divers pettie larcenies put in one enditement, and above the value of 12 pence, are punishable by death. *P. R.* 129. *Lam.* 273. *Dal.* 259.

Divers found guiltie of one larcenie above 12 pence, they all must die for it, for that felonie is severall in law, even as those others were severed in act. *Lam. 273. Dal. 259.*

*What acts doe amount to larcenie.*

To carry away the plate delivered to me in a tavern to drink in. *Dal. 259. Cro. 35. b. Lam. 278.*

To carry those things one is hired to carry, to another place than hee was hired, and there to convert them to his owne use. *Lam. 279. Dal. 260. Cro. 36. a.*

A servant not being an apprentice to goe away with the goods of his master above 40. shill. which were in his custodie. *Lam. 279. 280. Dal. 260.*

Carrier to convey away or convert to his own use the goods after they are brought to the place appointed by the owner. *Dal. 260. Lam. 279.*

He to whom the key of ones chamber doore is delivered, openeth the doore and taketh away the goods. *Lam. 279. Dal. 262.*

A servant receiving 10 pound in gold of his master to keep, changeth it into silver, and runneth away with it; for gold and silver are both of one nature, viz. money. *Dal. 261. Cro. 50. a. Lam. 281.*

A guest is harboured, who carrieth away his sheets out of his chamber with purpose to steale them, and is taken in the house. *Dal. 262. Cro. 35. a. Lam. 281.*

One servant runneth away with the goods of his master delivered unto him by his fellow-servant to the value of 40. shill. or converteth them to his own use. *Dal. 261. Cro. 50. a. Lam. 281.*

A carrier embezels part of the goods committed to his charge. *Dal. 260. Cro. 36. a.*

A servant receiveth of his master a piece of cloth to keep, and he maketh a garment thereof, and goeth away therewith. *Dal. 261. 262. Cro. 50. a.*

A servant taketh away or spoileth the goods of his deceased master; upon default of appearance in the Kings Bench after proclamation, it is felonie. *Dal. 262. 33. H. 6. 1. Lam. 281.*

Taking an horse feloniously, and apprehended before he get the horse out of the close. *Dal. 263. Lam. 282.*

The husband shall not be punished for theft done by his wife, he not knowing thereof, or if after knowledge he presently forsake her and his house. *Lam. 282.*

*What acts doe not amount to larcenie.*

One having goods bailed unto him, converteth them to his own use.

A carrier conveyeth the goods to another place than he was hired, and there converteth them to his own use. *Lam. 278. Dal. 260. Cro. 36. 2.*

An obligation or wares delivered to a servant, who receiveth the money or selleth the wares, and runneth away with the money. *Dal. 261. Cro. 35. b. 50. a. Lam. 280.*

A wife stealeth goods in the company of her husband, or by his command; *quære* if it bee without his compulsion, *Lam. 282.*

A wife stealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larcenie in neither. *Lam. 282. Dal. 268.*

Goods stolen by an infant under 12, a lunatick during his lunacie, a mad man, and deafe and dumb. *32. Dal. 269. Lam. 282.*

Riding away with a lent horse. *Dal. 260.*

A clothier delivereth wool or yarn to his workfolks, who embezell or sell part thereof. *Dal. 260.*

Goods delivered to another to keep, and hee consumeth them, or coverteth them to his own use. *Dal. 260. Lam. 278.*

So money or goods delivered to one to deliver to a third person, and the first receiver fleeth away with them, or converts them to his owne use. *Dal. 260.*

A servant hath a horse delivered by his Master to ride to market, or money to goe to a fair to buy cattell or other, or to pay to another man, and the servant goeth away therewith; *quare* if it be felonie by statute, *Dal. 261.*

A receiver receiveth his masters rents, and goeth away with them. *Dal. 262. Cro. 50. a.*

### 3. Leather.

Butcher that gasheth, slaughtereth, or cutteth the hide of the ox, steer, bull or cow, whereby it is impaired, loseth 20. pence; or that watereth any hide except in June, July, or August, or putteth to sale any putrified or rotten hide, loseth for every hide 3. shill. 4. pence. *1. Jac. 22. Lam. 462.*

Butcher using the said craft and also the myserie of tanner, loseth every day 6. shillings 8. pence. *ibid.*

Tanner using also the myserie of a shoemaker, currier, cutcher, or any artificer using the cutting or working of leather, loseth the hides and skinnes tanned. *ibid.*

Every person, other than such as had a tannehouse 29. *Martii* 1603. and did then occupie tanning of leather, or hath beene taught as an apprentice or hired servant 7. yeares in that myserie, or hath beene wife or sonne of a tanner brought up in this myserie 4. yeares, or the sonne or daughter of a tanner, or such as hath married the wife or daughter of a tanner, having left to them his tannehouse and fars, that tanneth any leather, or taketh any profit by tanning, loseth all the leather tanned by him, *Lamb. 462. 463. 1. Jac. 22.*

None

None may buy, contract for, or bespeake any rough hides or calves skinnies, but onely tanners or tawers of leather, except salt hides for the necessary use of ships, on paine of 6. shill. 8. pence for every hide. *1. lac. 22. Lamb. 463.*

None shall forestall any hides comming to faire or market, (except of such as kill for the provision of their house) on paine of 6. shill. 8. pence for every hide. *1. lac. 22.*

None may buy tanned leather nor wrought, but such as will convert the same into made wares, (except nets, and threds of saddles and girdles) upon losse of all the leather. *Lamb. 463. 1. lac. 22.*

Tanner suffering any hide to lie in the tannelimes till the same be over-limed, or that putteth any hides into the tanne-fats before the lime bee perfectly wrought out of them, or useth any thing in tanning but onely Ash bark, Oak-bark, Tapwert, Malt, Meale, Lime, Culver dung, or Henne-dung, or hath suffered his leather to be frozen, or to be parched with the fire or summer sunne, or hath tanned any rotten hides, or hath not suffered the hides for outward sole leather to lie in the woozes twelve moneths, and for the upper sole leather 9. moneths, or hath negligently wrought the hides in the woozes, or hath not renewed their woozes as oft as was requisite, or hath put to sale any tanned leather, not wrought according to the statute. *1. lac. 22. Lamb. 463, 464.*

Tanner that raiseth with any mixtures any hides to be converted to backs, bend-leather, clouting leather, or any other, sole leather, except the same bee fit and sufficient for that use, loseth the hides. *1. lac. 22. Lamb. 464.*

Any that putteth to sale, exchangeth, or otherwise departeth with any tanned leather red & unwrought, being in open faire and market, unlesse it be searched

and sealed in some open faire or market, or putteth to sale any leather not seached & sealed according to the statute, loseth for every hide or piece of leather 6 shillings 8 pence, and for every 12 calves skinnies or sheep skins 3 shillings 4 pence, and also the hides and skins or their value. *1. Jac. 22. Lamb. 464.*

Tanner putting to sale any leather insufficient, or not thoroughly wrought and tanned, or not well and thoroughly dried, and the same so found by the tryers appointed, *1. Jac. 22.* loseth so much as is insufficient. *Lamb. 464.*

He that seareth his furs in tanne-hills, or other places where the woozes or leather to bee tanned in the same may take any unkinde heats, or hath put any leather into warm woozes, or hath tanned with warm or hot woozes, forfeiteth 10 pound, and is to stand in the pillorie three market dayes. *1. Jac. 22. Lamb. 464.*

Felling oaks meet to be barked where bark is worth 2 shillings a load, above the charges of barking & pilling (timber for necessary buildings, and reparations of ships, houses, or mills excepted.) but between the first of Aprill and the last of June, loseth every tree or double the value. *1. Jac. 22. Lamb. 464. 465.*

Currier that currieth any leather but in his own house situate in a corporate or market town, or hath curried any leather not well tanned, or not thoroughly dried after his wet season, or hath used in such wet season any deceitfull means to corrupt the same, or hath curried any outward sole leather with any other stuffe than hard tallow, or lesse of that than the leather will recevie, or inner sole leather, or upper leather but with good stuffe being fresh and not salt, or hath not liquored them thoroughly, or hath scalded or shaven too thinne, or gasht in shaving or otherwise,

wife, or not wrought sufficiently any leather, loseth 6 shillings 8 pence, and the value of every skinne marred, except gashing in shaying, and for such gashing double as much as the leather is impaired. 1. *Jac.*  
22. *Lamb* 465.

Currier that during the time that he useth currying, useth the feat of a tanner, cordwainer, shoemaker, butcher, or other artificer using cutting of leather, loseth 6 shill. 8 pence each hide. *ibid.*

Currier refusing to curry within 8 dayes in summer and 16 daies in winter perfectly any leather brought by any cutter of leather, or his servant, bringing with him good stufte for perfect liquoring of the same, loseth 10 shillings for every hide.

Shoe-maker that maketh any Boots, Shoes, Buskins, Startups, Slippers, or Pantoffles, or any part of them of English leather wet curried, (other than Deere, Calves, or Goats skinnnes dressed like Spanish leather) but of leather well tanned and curried, or well tanned onely, and well sewed with thread well twisted, waxed, and refined, with the stiches hard drawn with hand leathers, without mixing neat and calves leather in the over leather thereof; or hath put into any shoes, boots, &c. any leather made of sheep skinnnes, bull-hide, or horse-hide, or into the upper leather of any shoes, slippers, or pantoffles, or into the nether part of boots, (the inner part of the shoes onely excepted) any part of the wombe, shank, neck, flank, pole, or cheek of any hide, or into the outer sole other than the best of the ox or steer hide; or into the inner sole other than the necks, wombe, pole, or cheek; or in trefwels of the double soled shoes other than the flanks of any the said hides; or hath put to sale any year between the last of September and the twentieth of April any shoes, boots, &c. meet for any person

person above foure yeares old, wherein hath beene any dry English leather, other than calves or goats skiones dressed like Spanish leather; or hath shewed for sale any of his wares upon Sunday, loseth 3. shillings 4. pence for every paire, and the just value. *1. lat. cap. 22. Lam. 465, 466.*

Every lord of faire or marker, that doth not appoint two or three honest and skiltull men to bee searchers and sealers of leather there, and six honest and expert men to try the same leather, loseth 40. pound. *Lam. 466.* Such triers as doe not their duties therein without delay, lose 5 pound for every default. *Lam. 467.*

Searcher or sealer so appointed, refusing with speed to seale good leather, or allowing insufficient leather, loseth 40. shillings; or receiving any bribe or exacting any undue fee for execution of his office, loseth for every offence 20. pound; or refusing to execute the said office being duly elected, loseth 10. pound. *Lam. 467.*

Hee that will not suffer a searcher to enter into any place to search tanned leather, or wrought wares, or to seize or carry away that which is insufficient, or hath put away any tanned leather red and unwrought, without registering the same and the price therof, loseth the value of the leather. *Lam 467. 1. lat. 22.*

## Leets.

Steward of a leet cannot grant suretie of the Peace, unlesse it be by prescription; but he may commit him to ward that shall make an affray in his presence whilest he is in execution of his office. *Lam. 14.*

He may also take presentment of an offence against the Peace. *ibid.*

Leut, vide Fish-dayes.

Justices



## Liberties and Franchises, 139

Justices of Peace may execute his authoritie within any liberties, not being a countie within it selfe, and it is good, but the liberty may have their remedy against him. *Lam.* 47, 48. *Dal.* 23. *Cro.* 8. a. 2. 181. b. 189, a.

## Libellers.

A man finding a libel against a private man, must presently burne it, or deliver it to some Magistrate. *Dal.* 191.

If against a Magistrate or publick person, to deliver it to some magistrate, that by examination the authour may be found out. *Dal.* *ibid.*

Libellers (it seemeth) may be bound to their good behaviour as disturbers of the Peace, whether they be contrivers, procurers, or publishers of the libels; for such libelling and defamation tendeth to the raising of quarrels and effusion of blood, and speciall occasions to the breach of the Peace. *Dal.* 190.

Libelling is by scandalous writings, by book, ballad, epigram, or ryme; 1. by scandalous words, as scoffes, jests, taunts, or songs; 2. by hanging up of pictures or signes of reproach, neare the place where the partie traduced doth converse most, as gallows, cucking-stoole, pillorie, horns, or such like. *Dal.* 190. *Cook* 5. fol. 125.

## Licenses.

Two Justices of the Peace may license poore diseased persons to travell to the Baths for remedie of their grieve, so as they be provided of reliefe for their travell, and begge not. 39. *Elis.* 4. *Dal.* 101. *Lamb.* 332. 1. *Iac.* 25.

Justice

Iustice of P. dwelling neare where any person having suffered shipwrack shall land, may and ought to make a testimoniall under his hand to such persons of the landing, &c. and thereby to license them to passe the next direct way to their place of birth or dwelling, and limit them a convenient time for their passage. *Dal. 101. 126. Lam. 303. 39. Elis. 4. 39. El. c. 17. Jac 25.*

No Iustice or Iustices of Peace (as it seemeth) can in any case license any poore man to wander, or beg at all. *Dalt. 101. 127. Lamb. 303. 39. Elis. 4. 17.*

Convicted for abusing of a license of transpotation of victuall, shall bee committed for a yeare without baile or mainprise. *Lam. 349.*

Licenses for badgers, drovers, &c. are to be granted in open Qu. Sessions. *5. Elis. 12. Lam. 610.*

## Linen cloth.

Hee that causeth to bee used any racking, beating, or casting any deceitfull liquor, or other meanes on any kinde of linen cloth, whereby it becommeth deceitfull, or the worse for use, forfeiteth such cloth, and is to have impritonment for a moneth at the least, and to be fined according to the Iustices discretion. *1. Elis. 12. Cro. 90. 2.*

Lying in a way, *vide* Way lying.

Acts made 16. R. 2. & 10. R. 2. & 1. Hen. 4. & 7. H. 4. & 8. Hen. 6. & Hen. 8. are repealed. *3. Car. 4.*

Log-wood, *alias* Blockwood.

Suspected to have offended against the statute for logwood, upon information to a Iustice of Peace, the suspect

## Masons. Maintainers, &c. 141

suspect or his servant or workman may bee called by warrant, and examined by oath or otherwise, to disclose the offence; and the offence being discovered, the offender and the examiners shall bee bound over to the next goal-delivery or Qu. Sessions, and there be judged to forfeit 20 pounds, and pillorie one or more market dayes, or upon refusall to be bound to be committed to the goal till hee will bee bound. 39. *Elis.* 1. 1. *Lam.* 613. *Dal.* 48.

Any two Iustices of the Peace, where any log-wood shall be found, in whose hands soever it shall be, may cause the same to be burned. 23. *Elis.* 9. *Dal.* 48. *Cro.* 198. b.

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## Masons.

**T**He causing of masons to congregate themselves in chapters, is felonie. *Lam.* 227. 3. *Hen.* 6. 1. Mainprise, vide Baylment.

## Maintainers and Embracers.

Maintainers and embracers of a Iurie enquiring of a riot, forfeit twenty pounds, and to be committed to prison, and to remain according to the discretion of the Iustice. 19. *Hen.* 7. 13.

The Iustices shall sit upon the inquisition of riots with the Sheriffe or under-sheriffe, and ought to certifye the names of the maintainers and embracers of a Iurie, with their misdemeanours which they know, by which the truth of the said riot is not found, upon pain of 20 pound for every one that hath not a reasonable excuse. 19. *Hen.* 7. 13. *Cro.* 199. b.

Main-

## 142 Maintainers and Embracers.

Maintainers of quarrels and embracers of lawsuits are to be imprisoned, and bound to the good abearing.  
33. Hen. 8. 10. 37. Hen. 8. 7. 38. E. 3. 3. Lam. 440.

Maintenance is where any man giveth or delivereth to another that is plaintiffe or defendant in any action any thing to maintaine his plea, or else maketh extreame labour for him where he hath nothing to do therewith.

Embracer is hee that when a matter is in triall between partie and partie, commeth to the barre with one of the parties, having received some reward for to do, and speaketh in the case privily labourerth the Jurie, or standeth there to survey or overlooke them, thereby to put them in fear and doubt of the matter: but men learned in the law may speake in the case of their clients. *Terms of the law.*

### Maim.

He that hath maimed another of any member, whereby he is lesse able to fight, as if a bone be taken out of the head, or a bone broken in any part of the body, or foot, or hand, or finger, or joynt, or if a foot or any member bee cut, or by some wound the sinews be made shrink, or other member or the fingers made crooked, or if any eye be put out, or the foreteeth broken or beat out or any other thing be hurt in a mans bodie, by meanes whereof he is made the lesse fit to defend himselfe, or offend his enemy, he and his accessories shall be grievously fined. *Lamb. 429.*

Iustices of Peace cannot upon an enditement of maim, make the triall by their own view and inspection, as the J. of the Kings Bench may doe. *Lamb. 532.*

If Iustices of Peace stand in doubt whether the hurt be a maim or not, they may use the help and opinion of some skilfull Chirurgeon to consider thereof.

Malt.

If any Bailiffe or Constable of any borough or other town shall find any malt made contrary to the statute, 2. & 3. E. 6. 16. & 27. *Elif.* 14. then with the advice of any Justice of the Peace within the shire, he shall cause the same to be sold to such persons, and at such reasonable prices under the common price of the market, as to their discretion shall seeme convenient. *Lam.* 202. *Dal.* 86. 21. *lat.* 28.

Any two Justices of the Peace may duly convict by two witnesses, or by the parties confession, any person that shall disobey the restraint of making made in open Q. Sessions, and shall commit him to prison without baile or mainprise for three dayes, untill hee become bound in fourty pound to performe such restraint. 39. *Elif.* 16. *Lam.* 332. 202. *Dal.* 87.

The Justices of Peace or the greater part of them, may in open Qu. Sessions restraine the converting of barley into malt. 39. *Elif.* 16. *Lam.* 613.

Malt must bee 3. weekes in the fat, on the floore steeping and drying, except in June, July, August, and then 17. dayes, or loie 20. pence for every quarter. *Lam.* 451. *Dalt.* 87.

No insufficient malt mingled with good malt must be put to sale. 2. & 3. E. 6. 16. & 27. *Elif.* 4. *Lam.* 452. *Dal.* 87.

No malt shall bee put to sale that is insufficiently troden, and out of which for every quarter hath not beene fanned one peck of dust. *ibid.*

Manlaughter, *vide* Homicide.

## Mariner.

Mariner comming from beyond the seas, or a scafaring man having suffered shipwrack, and in want, may be licensed by the next Justice of Peace to his landing

ding, to aske reliefe in his journey homewards. 39. *Elif.*  
4. *Lam.* 303. *Dal.* 126. 1. *Iac.* 28.

No fisher man to bee taken for a mariner by the Kings commission, unlesse chosen by the two next Justices to the place where hee is to bee taken. 5. *Elif.* 5. *Lamb.* 359. *Dal.* 87.

Mariner departing from his Captaine, without license, or wandring idly without, or with a forged license, knowing thereof, is a felon. 39. *Elif.* 17. *Lamb.* 227.

Any poore Mariner or Souldier comming from beyond the seas, that shall repaire to his place of birth, &c. and cannot there get worke, two Justices of the Peace next adjoyning may take order to set him to worke, and for want of worke tax the whole hundred for his reliefe, till sufficient worke may be had. 39. *Elif.* 17. *Dal.* 135. *Lamb.* 359.

## Market overt.

He that is owner, &c. of any faire or market where horses, geldings, mares, or fo'es are to be sold, and doth not yearly assigne one open place where the said horses, &c. shall be sold, and one to take Toll, who shall continue there from 10 in the morning untill sunne set, forfeiteth 40 shill. for every day. 2. & 3. *P. & M.* 4. *Cro.* 91. a. *Lam.* 431.

To alter the property of any strangers rights in horses and all other goods, they are to be sold in such a place or shop as is commonly used for selling goods of the same kind. *Dal.* 74.

Sale in faire or market doth not take away the owners propertie, the buyer knowing that it was anothers. *Dal.* 74.

## Marriage. 145

If any married person marrieth another, the former wife or husband being alive, except the husband or wife have beene beyond the seas seven yeares together, or hath beene absent within the Kings dominions 7 yeares together, the one not knowing the other to be alive, or was at such marriage lawfully divorced to bee void, or was had within yeares of consent, it is felony, 1. *Iac.* 11. *Lam.* 421. *Dal.* 281. *Cro.* 52. a. without corruption of blood, losse of dower, or disinheriting any heire.

## Masse.

To sing Masse, forfeiteth 200 marks and a yeares imprisonment. To heare it, forfeiteth 100 marks and like imprisonment. 23. *El.* 1. *Lam.* 413.

For the discovery of any who hath beene at Masse, *vide* Jesuites.

Master, *vide* Servant.

Measure, *vide* Weight.

## Messages false.

Two J. of P. one being of the *Quorum*, may (as it seemeth) binde over to the next Q. Sessions any suspected of getting money or other thing by false tokens or counterfeited letters, or may imprison such, or baile them to the next Q. Sessions. *Dal.* 48. 33. *H.* 8. 1. *Vide* *plura* Cozenage.

Milch Kine, *vide* Calves.

Minstrels, *vide* Rogues.

## Misprision.

Misprision is properly, where one knoweth that another hath committed treason, or felony, but

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was not consenting thereto, and will not discover the offender to the King or his Counsell, or to some magistrate, but conceals the offence. *Dal.* 230. *Stam.* 37. *Term of Law*, 131.

A Chaplain fixed an old seal to a new Patent of non-residence, it was holden misprision of Treason. *Term of Law*, *ibid.*

Knowing money to be counterfeit, and bringing it out of Ireland into England and uttering it in payment, is misprision of Treason. *Term of Law*, *ibid.* *Cro.* 44. *Stamf.* 38.3. *H.* 7.10.

For misprision of felony he shall onely be fined. *Dal.* 230. *Term of Law*, *ibid.* *Cro.* 44. a.

## Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of Judgement. *Dal.* 229.

To strike a Juror in presence of the Justice sitting in place of judgement. *Dal.* *ibid.*

To strike one in Westminster-Hall, any of the Kings Courts sitting. *Dal.* *ibid.*

In which cases the offender shall lose his right hand, and shall have judgement as in misprision of Treason. *Dal.* 230.

Rescuing one arrested by a Justice upon an affray sitting in place of justice, whereby he escapeth. *Dal.* 229.

For offenders in high Treason, misprision of treason. *Premunire*, though I. of P. cannot meddle in the very point of the offence, yet upon complaint to a Justice of Peace, or other knowledge, he ought to cause the party to be apprehended, and joyning



joyning, with some other Justice of Peace, to take the offenders examination and information upon oath of such as bring them, or other that can prove any thing materiall, and put it in writing under the hands of the informers, and commit the offenders to Goal, and binde over those which finde any thing materiall to appeare before the Lords of the Councell, or elsewhere to give evidence upon reasonable warning, and to certifie other doings to some of the Lords of the Councell or elsewhere. *Dal. 231.*

Willingly to aid and maintain, or knowing such as have absolved, perswaded, or withdrawn any within the Kings dominions from their obedience, or Religion now established, to the Romish Religion, or moved them to yeeld obedience to any other estate, or practised to doe any of them, or doth not within 20 dayes disclose it to some Justice of the Peace, or higher officer, it is misprison of treason. *23. Elis. 1. Lamb. 412.*

Within 6 weekes after any Bull or other instrument of reconciliation hath beene offered, not to reveale it to some of the privie Councell or Presidents of the North, or Wales, is misprison of treason. *23. El. 1. Lamb. 413.*

## Misprison of Felonie.

He that seeth one killed by another, or robbed, or any other felony committed, and is not of their confederacie, and doth not make resistance, or disturb the felon, or levy hue and cry, but conceale the same, it is misprison of felony, and fineable. *Dal. 284. 14. H. 7. 31. Crom. 44.*

A man foreknoweth of a felony to bee done,

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and concealeth it, and it is effected; it is misprison of felony. *Dal.* 286. *quere Cro.* 41. b. nu. 5.

Mitigation of fines and forfeitures, *vide Lamb.* 1. 577.

## Mittimus.

*Mittimus* must contain the names of the parties, their offences, and time of imprisonment. *Lam.* 297. *Dal.* 307. *Cro.* 153. a.

If one be committed without baile or mainprise, the cause is expressed in the *Mittimus*, and yet is baylable, other Iustices of the Peace may binde him: yet *Quere*, saith *Dal.* 309. seeing their authoritie is equall.

The forme of the *Mittimus*.

To send felons to the Goal, *Lam.* 220. *Dal.* 382.

To send riotters to the Goal, *Lam.* 321.

To send shooters in peeces, *Lamb.* 297. *Dal.*

243.

To send upon forcible entry, &c. *Lam.* 150.

To send to the house of Correction, *Dal.* 341,

342.

To send an ale-seller without license, *Dal.* 340.

To send a reputed father of a bastard, *Dal.*

340.

Monasteries, *vide Religious houses.*

## Mortuaries.

Spiritual person not to take mortuaries or any thing for them, where they have not beene used to be payed, or where the goods of the dead are

are under 10 marks ; taking above 4 shill. 4 pence where the goods are under 30 pound, or above 6 shill. 8 pence where they are above 30 pound and under 40 pound, or above 10 shill. where they are above 40 pound, hee shall forfeit all taken above his due, and 40 shill. to the partie grieved. 21. H. 8. 6. *Lam. 435, 436.*

## Multiplication of gold and silver.

To practise the art of multiplication of gold and silver, is felonie. 5. H. 4. 4. *Lam. 227, 425.*

## Murder.

Murder is when one man upon malice pretended, prepened, or precedent, doth kill another feloniously that liveth within the Realm, or under the protection of the King, whether it be openly or privately, and whether the partie slaine be English or alien. *Lam. 237. Dal. 237. Cro. 21. a.*

The killing shall have relation to the death and not to the stroke. *Cro. 21. Cook, part 4. 42.*

Malice is  $\left\{ \begin{array}{l} \text{Expressed,} \\ \text{or} \\ \text{Implied,} \end{array} \right. \left\{ \begin{array}{l} \text{Cro. 21. Dal. 237.} \\ \text{Lam. 239.} \end{array} \right.$

Malice expressed is when it is known that there is malice betwixt them, *Cra. 21.* and is apparent, and where there is a precedent falling out or lying in wait, or time and place appointed. *Dal. 237.*

Malice implied is when one is killed suddenly without defence, *Cro. 21. Dal. 237.*

As where one killeth another without provocation. *Lam. 239. Dal. 237.*

One busied, as reading, going over a stile, &c. killed. *Dal. 237. Cra. 23. b. 27. a. !*

One stabbed, not having weapon drawn. *1. Jac. 4. 8.*

To kill an officer known in executing proceſſe. *Dalibid.*

To kill an unknown officer if hee ſhew his warrant, and if an officer had the Kings writ or lawfull warrant, though it be erroneous, and ſlain in executing it, is murder. *Dal. 237. Lam. 240.*

To kill any magiſtrate or miniſter of Juſtice in executing his office, or in keeping the Peace. *Dal. 238. 210. Cro. 25. b.*

A rioter killeth an officer or an aſſiſtant comming to ſuppreſſe a riot, *Dal. 238. Cro. 23. b.* it is murder in all the rioters.

A Conſtable parting an affray, or any of his company comming to aid him, although it was ſuddenly and in the night. *Dal. 238. Cro. 25. a.*

A theefe killing a true man in reſiſting, is murder of malice prepenſed. *Dal. 237. Cro. 21. a. Lam. 241.*

1 A man carried his ſick father into the froſt, whereby he died. *Dal. 238 Lam. 240.*

2 An harlot hid her childe and covered it with leaves, and a Kite ſtrook it and killed it. *Dal. 238. Lam. 240.*

3 The owner knoweth his beaſt to bee accuſtomed to hurt and doth not tie him up, and after the beaſt killed a man. *Lam. 239.*

In theſe three caſes *voluntas reputabitur pro facto*, for it ſheweth that they had a will to hurt, and the will doth amount to malice, *Dal. 238.* and ſo to murder.

One having malice againſt another, aſſaulteth that other, and after flyeth to the wall, and then killeth that other; it is murder. *Lam. 239.*

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One condemned to die is killed by a private person without warrant, or by the officer contrary to the judgement; it is murder. *Lam.* 240.

Prisoner killed by his goaler by over hard keeping, it is murder.

One commandeth his servant to beat a man, who beareth him so that he dieth thereof; it is murder in the commander. *Dal.* 241. murder in both, *Lam.* 241. if it be in the commanders presence.

Many come to doe an unlawfull act, and one in doing thereof killeth a man; it is murder in all, although they did but look on. *Dal.* 241, 249. *Cro.* 22. a. 24. b. *Lam.* 241. *Stam.* 40. If they bee not present, yet if they be in the same house or upon the same ground, it is murder in all. *Dal.* 241. *Cro.* 25. a. *Lam.* 241.

All present and aiding, abetting or comforting another to doe murder, are principals. *Dal.* 241. 4. *H. 7.* 18 *Cro.* 22. a. *Lam.* 243.

Two appoint the field and meet, and bring company with them, and one of them is slain; it is murder in all that came. *Dal.* 241. *Com.* 98.

Murder is intended to one, and he killeth another; it is murder; *Lam.* 243. *Dal.* 240. *Com.* 474.

A woundeth B in fight, and after they meet suddenly and fight; if B kill A, it is murder, for it is intended malice upon the former hurt; but if A kill B, it is but man-slaughter, for the hurt did appease his former malice. *Dal.* 239. *Lam.* 251, 238.

Two in suit meet and quarrell, and the defendant killeth the plaintiffe; *quere* if it be murder, *Dal.* 240.

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both. *Dal.* 240. *Lam.* 242. *Dy.* 128.

The owner rebuked one stealing his pears, who killed the owner; it was adjudged murder, *Dal.* 241. *Cro.* 24. a. *Lam.* 241.

Poisoning of another wilfully whereby he dieth, is and was murder by the common law, *Dal.* 240.

The partie poisoned must die within a yeare and a day after receiving of the poison. *Dal.* 242.

After the beating or hurting another, to make murder, or other homicide, the yeare and the day is reckoned from the stroke given. *Dal.* 242. *Cro.* 25. b.

An appeale hath relation to the death. *ibid.*

A woman deliuered of a bastard, endeavouring privately either by drowning or by secret burying to conceale the death thereof, as that it may not come to light, whether it were borne alive or dead, but bee concealed, shall suffer death as in case of murder, except she make proof by one witness that the childe was borne dead.

Iustices of Peace may take Enditements of murder as of murder. *Lam.* 493.

## Musters.

Convicted before the Iustice of Peace for offence against the statute of musters, shall be imprisoned 10 dayes without bail, unlesse he pay the forfeiture being 40 shill. which is for absence without reasonable excuse, or not shewing his best furniture being commanded. 4 & 5 P. & M. 3. *Lam.* 349, 481.

The partie that sueth upon the statute of musters, is to recover the forfeiture belonging unto him by action, or bill of debt. *ibid.* *Lam.* 583.

Name,

**T**He names & surnames of the partie indicted must be certainly expressed; and if the indictment be of an accessary in felony, the name of the principall must be set down also. *Lam.* 488.

Nets, *vide* Hunting, Partridges and Pheasants.

## News.

Contriver, speaker, or teller of false or counterfeit news, wherof discord, &c. may arise betwixt the King and his Nobles, or any other false news, lies, or other false things of Prelates, Dukes, Earls, and Barons, &c. wherof discord and slander may arise within the Realm, shall be imprisoned till he finde out the author; and if he cannot finde him, shall be punished by the advice of the Council. *West.* 1. 34. 2. *R.* 2. 5. 12. *R.* 2. 11. 1. & 2. *P.* & *M.* 3. *Dal.* 318. *Dyer* 155. 1. *El.* 6. & 23. *El.* 2. expired by the death of *Qu.* 842.

## Next Justice.

Where the Statute of 13. *H.* 4. c. 7. willetth the Justice of Peace most nigh in every Countrey, where such riot or rout shall be, to do execution of the statute under pain of 100 pound, if any other Justice, that bee not next unto the place shall execute the statute, it will excuse the next, because all have power alike, by the first part of the stat. *Lamb.* 326, 327. *Dal.* 111. *P.* *R.* 30. *Dyer* 210.

Night-walkers, *vide* Watches.

## Noble Personages.

A Noblemans promise to keep the Peace, hath been held sufficient. *Dal.* 161, *Lamb.* 81, 82, 35. *H.* 6. *Fitz. Subp.* 20. 24. *E.* 3. 33.

A Iustice of Peace may not grant warrant of the Peace against a Lord of the Parliament. *Dal.* 161.

Nor against a Dutchesse, Countesse, or Baronesse; for they are Peers of the Realm, and shall be tryed by their Peers, and have the same privileges that Dukes, Earls, and Barons have. *Dal.* 162.

Dutchesse, Countesse, or any noble by birth, marieth with a gentleman, she loseth not her name of dignitie. *Cro.* 110. 2. *Dal.* 162. *Vide* Clergie, his 43. that a Nobleman may have his Clergie for any felonie except wilfull murder and poysoning.

### Non sanæ memoriæ.

There be 3 sorts of persons, *Non sanæ memoriæ*, or *non compos mentis*.

1 A naturall foole who is so from his birth.

2 He that was once of sound memory, and after by sicknesse, hurt, or other accident or visitation of God loseth it.

3 A lunaticke, *qui gaudet lucidis intervallis*, and sometimes is of good understanding, and sometimes is *not compos mentis*.

### Nusans.

Every man may in a peaceable manner assemble a meet company to doe any lawfull thing, or to remove or cast down any common nusans. *Dal.* 220. *Cro.* 66. 2.

### Obedience



## Obedience to the King. 155

**I**F any practise to absolve, perswade, or with draw any from their naturall obedience to the King, or (for for intent) from the religion now established here, to the Romish religion, or to move them to promise obedience to the See of Rome, or other estate, or if any have beene willingly so dissolved, or have promised such obedience, it is treason. 33. Elis. 1. Lam. 412. Cro. 18. 2.

## Colore officii.

When officers take any thing *Colore officii*, it is taken *in malam partem*, and is extortion, and the office is but a vail to cover the fault: but when it is *ratione* or *virtute officii*, then it is *in bonam partem*. Cro. 57. b. Com. 68. by Mountague.

## Ordinarie.

His Fees, *vide* Fees.

The Ordinarie oweth not his attendance at the Sessions of the Peace, as hee doth at the goal-deliverie. Lam. 395, 396.

## Oath.

You shall sweare that the suretie of the Peace, which you require against *A B*, is not of any malicious intent, for vexation, but for very feare, and for the needfull preservation of your body and goods in safetie; so helpe you God. Lam. 83.

Oath of the Justice of Peace, *vide* Dal. 13.

Oath of Supremacie, Dal. 14.

Oath

Oath of alleagiance, *Dal. 15. 3. Jac. 4. 7. Jac. 6.*

The *Custos Rotulorum* or any two Justices of the Peace, one being of the Quorum, may take the oathes of Under-sheriffes of their Countie, their Bailiffes, Deputies, Clerks, or under-officers, before they shall exercise their said offices. *Dal. 134. Sec 27. Elis. c. 12.* the forme of the oath.

*Quare* if Justices of the Peace may examine upon oath sureties of their sufficiency. *Dal. 171.* Justices of Peace in their Sessions may do it. *Cro. 194. a. 7. H. 6. 28. Br. Imprisonment 18.*

Default of Under-sheriffes, their Clerks, Bayliffes, &c. in not taking their oathes for execution of their office, is to be heard and determined at the Quarter Sessions. *27. Elis. 12. Lam. 615.*

Under sheriffes, Bayliffes, &c. doing any thing contrary to their oathes, lose to the partie grieved treble damages. *27. Elis. 12. Lam 433.*

Where the refuser of the oath of alleagiance shall incurre a *Premunire*, vide *Premunire*.

Refuser of the oath of alleagiance is disabled to execute any place of judicature or office, being no office of inheritance or ministeriall function, or practice of the law Civill or Common, or the science of Physick, Surgerie, or the art of Apothecarie, or any liberall science. *7. Jac. 6.*

One Justice of Peace to whom complaint is made, may commit to the goal without baile till the next Assizes, goal-deliverie, or Quart. Sessions, any above the age of 18 yeares (under a Baron or Baronesse) which stand presented, indicted, or convicted for not coming to Church, or not receiving the Communion, or which by the Minister, petrie Constable, and Churchwarden, or any two of them, shall be complained of to any Justice  
of

of the peace, and by him suspected for refusing the oath of allegiance. 7. *1ac. 6. Lamb. 199, 200.*

Two Justices of peace, one being of the *Quorum*, may require any person of the age of 18 or above, under the degree of a Baron or Baronesse, to take the oath of allegiance, and on refusal to commit him to the goal without bayle, till the next Assizes or *Q. Sessions*. 7. *1ac. 6. Lamb. 363.*

Where the examination of a Justice of Peace is the conviction of the party, there it ought to be upon oath: but where it is but to inform the Jurie upon the indictment, it needeth not, *Lamb. 536. Dal. 155.* Though the statute doth not expressly say it shall be upon oath. *Dal. ibid.*

In cases of felony it seemeth convenient that the information be upon oath, otherwise the examination shall not be given in evidence.

If the examinee die before the triall, the examination may be evidence; without oath many will speak coldly. It is the practice of the Courts in Westminster, *Dal. 299. & 300. Cro. 194. a. Lamb. 213, 214, 215. 19. H. 6. 4. 35. H. 6. 5. Upon 5. H. 4. c. 8. Br. Examination 32.*

The refusing the oath of allegiance required by two Justices of the Peace, and the taking of the same and oath of supremacy by a conformed Recusant returning into England, are to be certified at the next *Qu. Sessions*. 7. *1ac. 6. Lamb. 362, 363.*

The oath of allegiance required at the *Q. Sessions* of such as formerly refused the same, and being there tendered and refused, the refusers (other then Noblemen and women) incur *Premunire*, except women covert, who are to be sent to the goal without bayle. *ibid.*

Orchards and Gardens. *vide Hedgebreakers.*

Overseers

## 158 Overseers of the Poore.

All to whom the overseers by 43. *Elis.* 2. may binde apprentices, may take and keepe them as apprentices, and the overseers may with the assent of two Iustices of Peace, one being of the Quorum, in their respective limits where there be more than one, or by assent of one Justice of Peace where there be no more, set up, use and occupy any trade, mysteric, or occupation, onely for setting poore of the parish on worke wherein there are overseers. 3. *Car.* 4.

Pannell, *vide* *lurours*.

## Pardon.

**A**T the Common Law before the statute of 13. *R.* 2. *Stat.* 2. *c.* 1. a pardon of all felonies was good for murders, & so for pettie treason. *Lamb.* 561.

Pardon of all felonies is not good for murder or petty treason, except the pardon be with a *non obstante*, or that murder be therein expressly mentioned. *Dal.* 242. *Cro.* 21. b.

But it is good for accessaries, both before and after.

A pardon of all felonies will not discharge a man that is attainted of felony, except the execution and attainder be pardoned, *Dal.* 243. *Cro.* 115. *Lamb.* 562.

Breaker of the Peace after the pardon, forfeiteth the pardon, and may be hanged notwithstanding his pardon. *Dal.* 243. *Cro.* 115. b. 3. *H.* 7. 7.

The King onely can pardon treason, murder, or other felony, or any accessary thereunto. *Dal.* 243.

Generall pardon is that which is given by act of Parliamens

Parliament to all men, of which the Court ought of duty to give allowance, though the party will not plead it nor accept the benefit thereof. *Lamb.* 559, 560.

Pardon of abjuration is not good without special words of abjuration. *Lamb.* 562.

*Quere* if a generall pardon for petty-treason, availe him that is indicted of murder, without the word *proditorie*. *Lamb.* 560.

A generall pardon comming betwixt the stroke and the death of all misdemeanors, will availe for the death. *Lamb.* 560.

*Quere* if a pardon of all offences (except persons outlawed of murder) will availe one that hath committed manslaughter, and yet indicted and outlawed of murder, and after the pardon reverseth the outlawry. *Lamb.* 560. 29. *Elif.* Report *Crom.* 116.

Pardon of attainder and execution for felony is not good for felony. *Lamb.* 562.

Pardon of a Goaler for escapes of felony and traitours, is not good for voluntary escapes. *Lamb.* 562.

Pardon of 2 for all felonies done by them, or either of them, will not serve for offences done by one of them alone. *Lamb.* 562. 2. E. 4. 7. *Dyer* 34 That book is misreported, and contrary to the Record.

Pardon must agree with the indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for petty-treason, murder, nor of one attainted of felony. *Lamb.* 561.

A speciall pardon ought to be pleaded under the great seal, and a writ of allowance brought with it, testifying he hath found surety for the good behaviour, unlesse there be a dispensation by *non obstat*. *Lamb.* 561.

Prisoner

Prisoner pleadeth a pardon, the I. of P. in absence of the Kings Attorney may joyn issue that he is one of the persons excepted. *Lamb. 540. 8.E.4.7.Stam. 103.*

He that killeth another *se defendendo*, needs not sue to the King for a pardon. *Stam. 15. b.*

He that killeth one by misadventure, shall have a pardon of course without suir. *Stam. 16. Stat. of Glo. c.9.* in both Cases the goods are forfeited.

The manner of suing a pardon of course is, If they desire to purchase their pardon, they must upon their triall plead not guiltie, and then the speciall matter being found by verdict, they shall be bayled; then they must sue forth a *Certiorari* to certify the record to the Lord Chancellor, who shall make them a pardon of course under the great scale without suing to the King. *D. 240. Sta. 156.*

Park and Parker, *vide* Hunting.

Hunters or killers of any Deer or Conyes in the night or day time in any park or warren, or in any other inclosed grounds, and being thereof lawfully convicted, every such offender shall suffer 3 moneths imprisonment, and finde sufficient sureties for the good behaviour for the space of seven yeares, or else continue in prison till he finde such sureties for the space of 7 yeares. *Dal. 318. 5. Elis. 21. 3. Jac. 13.*

Parson and Vicar, *vide* Ecclesiasticall causes.

## Partridges and Pheasants.

Every I. of P. may examine offences against the statute of 23. *Elis. 10. Dal. 88. Lamb. 200.*

By 1. *Jac. 27.* he that shall shoot at, kill, or destroy with any gun or crosse-bow, any Partridge, Pheasant,

## Partridges and Pheasants. 161

Pheasant, House-dove or Pigeon with setting-dogs and nets, or with any manner of nets, snares, engines, or instruments; or shall kill or destroy any partridge, pheasant, house-dove, pigeon, heron, mallard, duck, teal, or any such fowle, or hare; or shall take or willingly destroy the eggs of any pheasant, partridge, or swan; or shall trace or course any hare in the snow, or take or destroy any hare with cords or such instruments, or shall keepe any greyhound for deere or hare, or setting dogs, or nets, to take pheasants or partridges, not having lands of inheritance of 10 pound, or 30 pound *per annum*, for life, or in goods 200 pound, or be sonne of a Knight, or sonne and heir apparant of an Esquire: any of the said offences being proved by the parties confession or oath of two witnesses before any two Justices of Peace of the countie where the offence shall be committed, or the party apprehended, shall be imprisoned for 3 moneths without baile, unless hee forthwith upon his conviction pay to the use of the poore there 20 shill. for every hare, fowle, and egge, and 40 shill. for every greyhound, setting-dog, or nets, or after three moneths imprisonment be bound with two sureties not to offend in any the said particulars, which recognizances taken by two Justices of the Peace may be returned at the Quarter Sessions. *1. Jac. 27. Dal. 89. Lam. 335.*

By 7. *Jac. 11.* prooffe of 1 witness is sufficient for the taking, &c. of partridges and pheasants; the punishment as *1. Jac. 27. Lam. b. 334.*

Killer of partridges or pheasants with hawks or dogge, by colour of hawking betweene the first of July and the last of August, upon conviction within six moneths after the offence by the confession of the partie or oath of two witnesses before two

## 162 Partridges and Pheasants.

Iustices of Peace, is to be imprisoned one moneth without baile, unlesse hee pay presently to the Churchwardens and Overseers of the poore where he offended or was taken, 40 shill. for hawking, and 20. shill. for every partridge or pheasant taken. 7. *Iac. 11. Dal. 689. Lamb. 335.*

Taking of pheasants or partridges upon another mans ground by nets or otherwise, except unwillingly by trammell, and there to let them go again, loseth 20 shill. a pheasant, and 10 shill. a partridge. *11. H. 7. 17. & 23. Elis. 10. Lamb. 447.*

Hawking in corn before it be cropped, without consent of the owner, loseth 40 shill. *ibid.*

Taker, killer, or destroyer, by gunnes, bows, setting-dogs, nets, or other engines, of any partridge or pheasant, except the owner of a warren, Lord of a manour, or having lands of inheritance in his own or his wives right of the cleare yearly value of 40 pound, or for life of 80 pound, or goods worth 400 pound, and their household-servants authorised by them within their own grounds in the day time onely betwixt Michaelmas and Christmasse, upon conviction within six weeks after the offence committed, by confession or oath of two witnesses before two Iustices of Peace next the place of offence or apprehension, to be imprisoned 3 moneths without baile, unlesse he pay immediately unto the Churchwardens and Overseers of the poore of one of the said places, 20 shill. and bee bound to the King by recognizance in 20 pound never to offend again: the same to be certified at the next generall Quarter Sessions. 7. *Iac. 11.*

Buyer or seller of hare, deer, partridge, or pheasant (except partridges or pheasants bred up or brought up from beyond the seas) loseth for every  
deere



deere 40 sh. pheasant 20 sh. hare or partridge 10 sh.  
one moytie to the informer, the other to the poore  
of the parish. 1. *Iac.* 27.

Constable by warrant from two Iustices of the  
Peace may search the houses of any not allowed;  
suspected to have any setting-dogs or nets for par-  
tridges, and finding them, may detaine, kill, or cut in  
pieces any of them. 7. *Iac.* 11.

Offences against the Statute of 1. *Iac.* 27. pu-  
nished by it, are not to bee punished by Iudges of  
Assize in their circuit, Iustices of Peace at Quarter  
Sessions, or two Iustices of the Peace out of the  
Sessions. 1. *Iac.* 27.

Offences punished by 7. *Iac.* 11. are not to bee  
punished by any other. 7. *Iac.* 11.

Procla-

## Peace.

Every private person that shall be present at any  
assay, assault, or batterie, ought to part them that  
fight: and if he take hurt, he shall have his action;  
but if they resist him, he may not hurt them. *Lam.*  
131. *Dal.* 33.

Every man may stay the assayers, till their heat  
be cooled, and then they may deliver them to the  
Constable to imprison the till they find sureties of  
the Peace; but they may not imprison them unlesse  
the one of them be in perill of death by some hurt,  
for then any man may carry the other to the goal  
till it be known whether the other will live or die.  
*Lam.* 131. *Dal.* 33. 3. *H.* 7. 1. 10. *H.* 7. 20. *Br. Cor.* 225.

He which hath mortally hurt another, flieth into  
another's house. 7. l. 3. 19. any man that pursueth  
him with hue and crie, may break open the  
house, enter, and take him. *Dalt.* saith the Consta-  
ble may. *Lam.* 131, 132. *Dal.* 34.

Peers, *vide* Noble personages.

Pedlers, *vide* Rogues.

### Perjurie.

Procuring any unlawfully to commit wilfull perjury in any case depending in court of Record, Lect, Court Baron, Hundred Court or ancient demesne, or hath corruptly suborned any witness sworn to testifie *in perpetuam rei memoriam*, or if any have upon such procurement or by his own act wilfully committed such perjury, the procurer shall forfeit 40 pound; and if not worth so much, halfe a yeares imprisonment without baile, stand upon the pillorie for one houre, and disabled for a witness for ever after.

The perjured 20 pound and six moneths imprisonment, and ever disabled for a witness; and if not worth 20 pound, to have his eares nailed to the pillorie. *5. Elis. 9. & 14. Elis. 11. & 1. Jac. 25. Lam. 416. Cro. 18. a. b.* This offence to bee heard and determined in the Sessions, *Lam. 609.*

Execution of the forfeiture upon the statute of perjurie, to be awarded by the Justices of the Peace before whom the conviction was. *Lam. 585.*

Committing of perjurie upon answer to a bill of complaint is not within the statute of *5. Elis.* but for a false deposition upon examination upon interrogatories. *Cro. 18. b.*

If any give false evidence upon a bill of indictment at the Sessions, it is held hee shall not be punished by the statute of *5. Elis.* for that the King is not named in the said statute. *Cro. 16. b.*

Perjurie.

The wilfull killing or joyning in killing of the husband by the wife, the master or mistresse by the servant, the Ordinary by his clerk, is petty-treason. 25.E. 3. 2. *Lam.* 245, 246. *Dal.* 232. *Cro.* 19. b. 29.

The childe maliciously killeth the father or mother, it is pettie-treason, though the father or mother at the same time give neither meat, drink, nor wages to the said childe; but it is treason in the said childe, in respect of the dutie of nature violated. *Dal.* 232. *Cro.* 19. b. But *Lam.* saith it is not treason in the childe, if the father give it not meat nor drink, as to a servant, *Lam.* 245. and doe their businesse, for it is as a servant. 21.E. 3. 17. more for meistre by *Lam.* opinion.

The sonne or daughter in law kill the father or mother in law with whom they dwell, and doe service, and have meat and drink; it is pettie-treason, though such childe take no wages; but the indictment shall be by the name of servant. *Dal.* 233.

Judgement in petty-treason is, a man is to be drawn and hanged; if a woman, both in high-treason and petty-treason to be drawn and burned. *Dal.* 233. *Lam.* 570. 1. R 334.

The forfeiture for pettie-treason is, the King shall have all his goods, and for his lands *Annum, decem, & vallum*, and the escheat thereof shall be to every lord of his proper fee. *Dal.* 234.

No clergie is allowed in case of pettie treason. *Dal.* 233.

Pewter, vide Brasse.

## Physician.

One neither Physician nor Chirurgion taketh upon him to cure a sick or wounded man, who di-

eth under his hand, it was felonie. 34 H. 8. c. 8. Lam.  
240. Dal. 239. Britton. fol. 14.

But if a smith or other having skill onely In cutting and dressing diseases of horses or other cattell, shall take upon him cutting, or letting blood, or such like cure of a man, who dieth thereof, it seemeth to be felonie. Dal.

Pictures brought from Rome, vide *Agnus Dei*.

Playes and Players, vide *Unlawfull games*, vide *Rogues*.

## Plague.

Head-officers and Iustices of Peace in a corporation, or in a privileged place, or two of them, may set a weekly tax on the inhabitants of the corporation, or privileged place, or liberties thereof, for the reasonable reliefe of persons infected, or dwelling in houses infected within the said corporation or privileged place. 1. Iac. 31. Lam. b. 337.

Corporation or privileged place not being able to relieve the persons infected therein, upon certificate of the head officer or Iustices of Peace, or two of them to the two next Iustices of the Peace, may assesse and tax the inhabitants of the countie within five miles of the corporation at a weekly tax for the reliefe of them. 1. Iac. 31. Lam. b. 337.

There being no Iustice of Peace in the corporation, or the infection being in a hamlet, the two next Iustices of the countie may assesse the inhabitants of the countie within five miles of the place infected, for the reasonable reliefe thereof. 1. Iac. 31. Lam. 338.

The

The taxes upon refusall to bee raised by warrant of the head-officers or Iustices upon the goods of the refuser, or upon default of goods returned, the partie by another warrant to be impleaded, till hee make payment thereof with the arrerages. *1. Iac. 31.*

Taxes made for the reliefe of places infected, are to be certified at the next *Q<sup>a</sup>* Sessions, and there to be continued, enlarged, or extended to other parts of the countie, or determined by the greater part of the Iustices. *1. Iac. 31. Lam. 609.*

Taxes levied of the countie for the reliefe of an infected corporation, are to be disposed by the head officer and Iustices of the corporation, or two of them; and if there be no Iustice, then by the Iustices assessors. *1. Iac. 31.*

Officers negligent in levying of the taxes, lose 10 shill. to be employed as the taxes. *1. Iac. 31.*

Warchmen not to be impeached for hurting those infectious persons that being commanded to keepe in, will in offering to come forth resist the watchmen. *1. Iac. 31.*

Any infectious person commanded to keepe in, goeth abroad and keepeth company, having an infectious sore uncured, is felonie without corruption of blood, or forfeiture of goods; if without sore, to bee punished as a vagabond by 39. *Elis. 1. Iac. 31.*

Officers of a corporation and Iustices of the Peace in the countie, may respectively appoint, sweare, and direct searchers, watchers, and triers of infected persons and places. *1. Iac. 31. Lam. 197.*

One Iustice of Peace may upon complaint examine the Sheriffe or Undersheriffe and plaintiffe concerning the taking and entring of plaints in their countie Court in books against the statute, or any bayliffe of the hundred for not warning the defendant in such a plaint according to his precept from the Sheriffe or undersheriffe; and if he thereby finde them faulty, that shall stand for a sufficient conviction and attainder without further enquiry or examination, and these examinations the Iustice must certifie into the Exchequer within a quarter of a yeare, on paine of forfeiture of 40 shill. for every default. *11. Hen. 7. 15. Lam. 201. Dalt. 133. or rather 137. if they were truly printed.*

Sheriffe entring plaints in any mans name that is not present in Court, nor hath any sufficient Attorney or deputie, loseth 40 shill.

So if hee enter more plaints than the plaintiffe supposeth hee hath cause of action for. *11 Hen. 7. cap. 15. Lam. 431.*

Pond and Pond-heads, *vide Fish.*

Poysoning, *vide Murder.*

## Pope.

To extoll the power of the Pope by writing, printing, preaching, or any speech, open deed or act advisedly holden, or of his See heretofore claimed and usurped within this Realm, or to abbet, procure, counsell, aid, or comfort such, is treason, *4. Eliz. 1. Lam. 411.* for the second offence; for the first offence, *Premunire. Dalt. 227.*

Presentment at the Quarter Sessions for extolling the power of the Pope of Rome, must be certified by the Iustices of Peace before whom it

was taken into the Kings Bench, within 40 dayes after, if the term open; it not, then the first day of the next term, or every l. lose 100 pound *5. Elis. 1.*

Printer, buyer, seller, or bringer from beyond the sea of any Popish Primer, Lady Psalters, &c. in any language, or other superstitious bookes in English, loseth 40 shill. a book, whereof one part to the King, another to the informer, a third to the poore of the parish where the book shall be found, *3. Jac. 5.*

Two Iustices of the Peace may search the house or lodging of a Popish Recusant, or whose wife is such, for Popish books and reliques, and finding any unmeet for them to use, must deface and burn them, or being of value deface them and restore them to the owner. *3. Jac. 5.*

### Poore People.

Traveller with wife and children, not being a rogue, dyeth or runneth away, the Town where that happeneth is not bound to keep them nor send them away, except they become wandering rogues. *Lamb. 208. Resol. 7.*

Parents able to work are to finde their children by their labour, and not the parish *Resol. 8.*

None is to be removed out of the Town where he dwelleth, or sent to the place of birth or last habitation, but a vagrant, nor found by the Town except he be impotent. *Resol. 9.*

Persons destitute of houses by expiration of term, or servants out of service, must provide houses for then selves and services. *Resol. 9. Dal. 99.*

Ab'le bodies refusing to work, and no wanderers, are not to bee sent to the place of birth or last habitation,

bitation, but to the house of correction, *Ref. 10.* by such a Just. of P. as may appoint overseers for the poore. 43. *Elif. 2. Dal. 99. Lamb. 209, & 295.*

Able bodies, yet idle and refusing to work, having any lawfull meanes to live by, are not to bee sent to the house of correction. *Ref. 10.*

It is finable to remove or put any out of the parish, who are not to be put out, and such may be sent back *Ref. 1. 11. Dal. 100.*

None may take reliefe at any mans doore in the parish, but by the appointment of the overseers, nor beg in the high-ways in their parish. *Ref. 15.*

Parsons, vicars, farmers, or owners of impropriations, cole-mines, or saleable woods, are to be charged with the reliefe of the poore. *Ref. 18 19.*

In default of an assesse made by the Churchwardens, Constables, and Parishioners of the Tax imposed upon them at the Easter-Sessions, one Justice dwelling in the parish, or if none dwell there, the next adjoyning Just. may rate the assesse, and in default of payment may levy the same by distresse.

Any Justice of Peace may imprison without bail, and make sale of the offenders goods, rendring to the party the overplus; and in default of such distresse, any Justice of Peace may imprison without baile such refuser untill he pay the same. 43. *Elif. 2. Lamb 294. 295. Dal. 110. 1. Jac. c. 25.*

Bishop and his Chancellour and 3. J. of P. have power to examine how money for reliefe of the poore appointed by the statute is bestowed, and to call to account the detainers thereof. 14. *Elif. 5. & 39. Elif. 18. Lamb. 368.*

1. of P. proved before the Judges of Assize by 2 witnesses to be in default about the execution of the statute for the poore, loseth 5 pound. 14. *Elif. 5. Lam. 372.*

Parents



Parents at the Qu. Sessions appointed to keepe their children, or children their parents, and have not relieved them at their own charges, lose 20 shil. a moneth. 39. *Elif* 34. *Lamb* 445.

In disabilitie of the parish or hundred to relieve their poore, the greater part of the Justices at the Qu. Sessions may rate any other parish or hundred thereto. 39. *Elif* 3. & 43. *Elif* 2. *Lamb* 611.

Beggars children at the Q. Sessions may be bound to serve any subject in an honest calling. 14. *Elif* 5. & 18. *Elif* 3. *Lamb* 614.

Performance, or not performance of so much of the statute of 14. *Elif* 5. for the poore as is not repealed by 39. *Elif* 3. or 43. *Elif* 2. 1. *Jac.* c. 25. is to be yearely examined at Easter Sessions. 14. *Elif* 5. *Lamb* 620.

Overplus of the stock for maymed souldiers is to be employed by the greater part of the Just. at the Q. Sessions to such charitable uses, as are set down in the statute for the Poore, except by them it be reserved for future pensions. 43. *Elif* 3.

Young children, the parents being dead, are to be set on work and relieved by the Town where they dwelled at the death of their parents, and not sent to the place of their birth. *Dal* 98.

The Justices may compell such as be of abilitie, to take poore children apprentices, and may binde such masters refusing, over to the next goal delivery: so said Sr. Henry Mountague at Cambridge Affizes 1618. and the statute of 43. *Elif* 2. seemeth to warrant as much, the words whereof are to this effect; It shall be lawfull for the Churchwardens and overseers or the greater part of them, by the assent of 2 I. of the P. to binde any such children to be apprentices where they shall see convenienc cause

cause, *Dal.* 95. 93. or the Churchwardens or overseers, with the assent of two such Iustices, may impose a competent summe of money upon such refuser for putting out such an apprentice, and upon refusal to levy it upon the Iust. of Peace his warrant by distress and sale of the offenders goods, *Dal.* 95.

If the parents, without good cause shewed, refuse to suffer their children to be apprentices, the Iustice may binde them over to answer their contempt; if the childe refuse, send him to the house of correction *quousque, &c.* *Dal.* 95. 96.

A master putteth his apprentice into apparell, he cannot take it away though hee part with the apprentice, *Dal.* 96. *Ante* 93.

If after the death of *A.* another man abateth or entreth into his house forcibly before the heire of *A.* hath gotten any actuall possession indeed, the heire of *A.* shal have no restitution, because he had a possession in law onely. *Lam.* 153. *Dal.* 59. 60. 213.

Two Iustices of Peace, one being of the *Quorum*, may send to the house of correction or goal such as imploy not themselves to work being appointed. 43. *Elis.* 2.

### Power of the County.

Information of a riot is a sufficient cause to raise the power of the county, though indeed there were none *Lamb.* 315. *Dal.* 114. *Cro.* 64. b.

Power of the county is raised without knowledge or information of a riot; if when they come they finde one, it is lawfull, and they may proceed to punish it. *Lamb.* 316. *Dal.* 114. *Cro.* 64. b.

Power of the county in suppressing a riot, *vide* Riot,

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## Power of the County. 173

The Iustice of Peace, Sheriffe, or under-sheriffe, in levying power of the county, may have the aid of all the Knights, & other temporall men under that degree that are above the age of 15, and able to travel, upon pain of imprisonment, fine, and ransom to the King. *Dal. 114. L. 315. Cro. 157. b.* But it is referred to the discretion of the Iustices how many or how few they will have, and in what sort they shall be armed. *Dal. 114. Lamb. 315. Cro. 64. b.*

One I. of P. may take power of the county, to suppress riotters, and need not tarry till his fellows come. *Cro. 157. b. Dal. 110. Lamb. 184.*

Constable may take the aid of his neighbour to arrest another upon an affray. *Cro. 158. a. L. 134.*

Sheriffe upon a writ of execution returned that he could not execute it for resistance, and was amerced 20 marks, because he took not the power of the county. *Cro. 158. a. 17 R. 2. c. 8. & 2. H. 5. c. 8 13. H. 4. c. 7.*

## Preacher.

He that disturbeth a Preacher of purpose maliciously or contempuously in Sermon-time, is to be bound to his good behaviour, and have 3 moneths imprisonment. *Lamb. 416. l. M. c. 3.*

If the disturber of any Preacher be arrested and brought before any Iustice of Peace, upon due accusation and examination heard, either by the arrester or other person, hee shall forthwith commit the party so taken to custody by his discretion; and within 6 dayes after another Iustice joyning in examination, they upon confession of the party, or conviction of 2 witnesses, may commit him to prison for 3 moneths. *1. Mar. 4. Lamb. 195, 333.*

Quere if all the statute of *1. Mar. 3.* be not repealed by the generall words at the lower end of the

the statute. 1. *Elif.* 2. *Dalt.* 103. 104. *St Nich. Hides* opinion cited that it was wholly repealed.

Precept, *vide* Warrant.

### *Præmunire.*

Refusall to take the oath of the Kings Supremacie, the first offence is *præmunire*, the second treason. 5. *Elif.* 1. *Lam.* 411. 23. *El.* c. 1.

To aid, comfort, or maintaine one that hath committed treason in using of bulls, is *præmunire*. 23. *Elif.* 1. *Lam.* 411. *Vide* Treason.

To hold, set forth, or defend the power spirituall of any forreign Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching, expresse deed or act maliciously or directly, or to put in use or execute anything to that end, the first offence is *præmunire*, the second treason, 1. *El.* 1. & 5. *El.* 1. enqui table by words of 23. *El.* 1. & *Lam.* 411.

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop or See of Rome, &c. to the intent to uphold the authoritie of the See of Rome, incurreth *præmunire*. 13. *El.* 28. & 23. *El.* 1. *Lam.* 413.

To bring from the Bishop or See of Rome, or any claiming authoritie from it, *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliuer or offer them, or cause to be delivered or offered to any of the Kings subjects to use or receive them to such intent, and not to apprehend the offender, or within three dayes disclose him to the Ordinarie or other Justice of Peace, or within one day deliver the things received to a Justice of Peace. 13. *El.* 2. & 23. *El.* 1. *Lam.* 414.

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The forfeiture in cases of *præmunire* upon the statute of 16. R. 2. is to forfeit his lands and tenements in fee for ever, his lands in taile for his life, and all his goods and chartels, and to have a perpetuall imprisonment, and to be out of the Kings protection. *Cro* 14, 15. 2 *Dal.* 230, 231. but *quare* if he be attainted upon 27. of E. 3. 1. if he appeare at the day of the *præmunire* returned. *Dal.* *ibid.* Br. *Præmunire* 6. and 20. 8. *H.* 4. 6, 7. *Coo.* 1. 134. *Instit.* 129. & 130. at large.

A man may not kill him which is attainted in the *præmunire*, by 5. *Elif.* 1. but before he might, for they were out of the Kings protection. *Cro* 15. 2.

One lawfully imprisoned untill the next Sessions for refusing the oath of alleagiance, and there again refusing it, incurreth a *præmunire*, except married women, who are onely to be imprisoned without baile. 2. *Jac.* 4. *et* 7. *Jac.* 6.

Nor disclosing nor certifying within 14. dayes the name of him which bringeth any *Agnus Dei*, crosses, or pictures, to one of the Kings Councell, 13. *El.* 2. is *præmunire*. *Lamb.* 195. 372.

Breakers of bargaines contrarie to the statute of 37. *H.* 8. c. 9. provided against usurie, shall be punished, as Counsellours, Attorneys or Aodvcares in case of *præmunire*. 1. *El.* 8. & 39. *El.* c. 18.

Delivering or sending any reliefe to a Jesuite, Priest, or other remaining in any colledge of Jesuites, incurreth *præmunire*. 27. *El.* 2.

## Presentment.

Presentment is a declaration of the Jurours or Officers without any bill offered before. *Lam* 485.

It differeth from an enditement, which is the verdict

verdict of the Jurours that be charged to enquire of that offence which is offered. *Lam.* 486.

*What shall be a good presentment.*

Presentment at a Sessions where the style is in the name of three, and the presentment taken by *2. No. Lam.* 383.

Presentment where some of the Jurours be allied or of blood to him that procureth the indictment; but it is no discretion in the Justice to suffer such to be impannelled. *Lam.* 398.

Presentment where some of the Jurours be allied or of blood.

Presentment of a Jurie of an hundred, of an offence done in another hundred. 399.

Presentment where all were not sworn, if the Record be that all were sworn. *Lam.* 399.

*Where the declaration of the Officers of the Sessions shall have the force of a presentment.*

A Justice of Peace upon his own knowledge of offences against the statute of 2. & 3. P. & M. cap. 8 & 5. Elf. cap. 13. of High-ways. *Dal.* 67. *Cro.* 125. b. 195. a.

Searchers appointed to examine the true making of tile.

Constable for sundry points in the statute of Winchester. 13 E. 1.

Amendment of a presentment, *vide Venire facias.*

Priests, *vide* Jesuites.

Principall and Accessarie, *vide* Accessarie.

## Prison.

One committed to prison for refusing to finde  
jurcties

sureties for the Peace, shall remaine there till hee freely offer and finde them. *Lam. 93.*

One committed for denying to finde sureties for the Peace, may not be delivered upon the death or release of the partie, without helpe of the Sessions or goal-delivery. *Lam. 93. Quere.*

One imprisoned till hee make fine that stood whilest one was shaine, because he did not his best to attach the murderer. *Lam. 132 8. E. 2. Coron. 395.*

The Sheriffe or Goaler may imprison in his house or in the common goal at pleasure. *Dal. 339. Quere. Cro. 169. b. Lam. 133.*

Constable cannot imprison in his house but in the stocks, and that but untill he may provide convenient aid to convey him to the Justice of Peace or the goal. *D. 340. L. 133. 20. E. 4. 6. 22. E. 4. 35. 3. H. 4. 9.*

Just. of peace cānot cōmit felons to prisons which be not cōmon goals, nor make a goal of their own houses. *Dal. 339. Lam. 133. 5. H. 4. 6. 10. Cro. 9. 119. b. 23. H. 8. c. 2.*

Justice of Peace may commit to the stocks some offenders against certain penall statutes. *Dal. 339.*

Breach of prison is the escape of a felon, though not endited, out of the goal, stocks, or possession of any keeper. *L. 229. M. 2. E. 3. Coro. 158. Dy. 99. & 312*

One imprisoned upon a *Capias pro fine* is to bee delivered upon payment thereof. *Law. 574. or upon pledges by recognizances for payment thereof.*

### Prisoners.

Every one who is under arrest for felonie, is a prisoner as well without prison as in the stocks, in the high-way, or in the possession of him that arrested or hath the keeping of him. *Dal. 335.*

To break prison is felonie, being committed for felonie. *Lam. 229, 424.*

Refcous to helpe a prisoner committed for felonie, to get away is felonie. *Lam.* 229, 424.

If an officer or other whatsoever by his wilfull default suffer a prisoner to escape, it is felonie. *Lam.* 229, 424.

Prison-breach is to escape out of the stocks, or out of any mans possession. *Lam.* 229.

Unlawfully to utter a device by a Jurour to set a prisoner at libertie, endited of treason concerning the Kings person, is felonie, *Lam.* 402. *Coron.* 272. 27. *Aff.* 63. 18. *E.* 3.

Churchwardens are to levie money for the reliefe of prisoners, and to pay it to the high Constable quarterly, who is to pay it to the collectour at the Quarter Sessions, and hee is to distribute it weekly; and making default lose 5 pound. 14. *Eliz.* 5. *Lam.* 475. 1. *Iac.* c. 25.

Prisoner of sufficient abilitie shall beare his own charges, and of them that shall bee appointed to guard him to the goal; and he refusing, the Constable of the parish where he dwelleth, by warrant from the Justice that committed him, may levy the same by distresse and sale of his goods after apprizement by tourse of the parish, the overplus to be delivered to the owner. 3. *Iac.* 10.

Prisoner not of abilitie, and those that guard him, to have their charges for the place of apprehension to the goal born by the parish where he is apprehended, the same to be equally taxed by the Constables and Churchwardens, & two or three of the inhabitants, and allowed by the J. of P. 3. *Iac.* 10.

Any lawfully taxed for the charge of bringing a prisoner to the goal, and refusing to pay it, Constable or other officer of the parish, by warrant from the Justice of Peace that committed him, may levie the  
the



the same by distresse, and (after apprizement by foure of the parish) sale of the goods, giving the owner the overplus. 3. *lac.* 10.

Defendant in action for a distresse taken by force of the statute of 3. *lac.* 10. may plead not guilty, and give the speciall matter in evidence, and upon recovery or non-suit shall have treble damages. 3. *l.* 10.

Prisoners discharged by Iustices of Peace who take the enditement to bee void, may bee stayed if they change their opinion before judgement. *Lam.* 540. Enditement. 27.

Privie Sessions, *vide* Sessions.

Processe.

Processe hath the name because it proceedeth or goeth out upon former matter either originall or judicall. *Lam.* 519.

Suggestions and informations, whether by word or writing, are but to stirre up the Iustices to commend the cause to the Inquest, and not to award processe upon them, *Lam.* 509. unlesse it be certain causes where it is especially given them by statute. *ibid.*

Authority to make processe upon enditements is given to the Iustices by words of their commission, or by implication where the power of hearing and determining is given by their commission. *Lamb.* 520.

No processe, plea, or suit, is to be discontinued by making a new commission of the Peace. 11. *H.* 6. c. 6. 4. *Lam.* 520. See the end of 1. *E.* 6. c. 7.

Processe upon all enditements of trespassse against the Peace or upon speciall statute is *Venire facias*; and if he be thereupon returned sufficient, then a *Distringas infinitè*; if hee bee returned

*nihil habet*, then *Capias alias*, *pluries*, *Exigent*. *Lam.* 522. 523.

Processe upon the statute of unlawfull games, *li-veries*, maintenance, *archerie*, &c. *Venire facias*, *Capias*, *Exigent* 23. *H. 8. 10.* *Quere* if it be not repealed by 37. *H. 8. 7. Lam.* 523.

Processe upon the statute of victuals, attachments, *Capias exigent*. *Lam.* 523, 524.

Processe upon depraving the Sacrament is two *Capias*, *Exigent*, *Capias ut legatum*, and may be sent by any three justices into any shire. *Lam.* 524.

Justices of Peace may award processe into a forrein county against an accountant for money levied for making a goal. 25. *H. 8. 5. 5. Elis.* 24. *Lam.* 525.

Justices of Peace where the servant departed, may award a *Capias* to the Sheriffe of the shire wherein to he departed, returnable before themselves. 5. *Elis.* 4. So where a decayed bridge is in one countie, and the partie or land chargeable in another countie 32. *H. 8. 5. Lam.* 525.

One indicted of treason or trespassse in one countie, is imprisoned in another.

Justices may award *habeas corpus* to remove him before themselves. *Lam.* 526.

Processe upon indictment of felonie may be sent into any forrein county. 5. *E. 3. 11. Lam.* 528.

Processe upon indictment of felony is two *Capias* and an *Exigent*. 23. *E. 3. 14. Lam.* 527.

Enditement of treason, felonie, or trespassse in one countie nameth the endited to bee in another, the first processe shall goe into the countie where he is indicted, the second to the county where hee is named; to be returnable three moneths after; and if he be not to bee found there, then that Sheriffe to make

hail to the prosecutors.

Regulatio

make proclamation at two County Courts before the Justices of the countie where the indictment is at the day in the *Capias*; and if hee appeare not, an *Exigent* to be awarded. 8. H. 6. 10. Lam. 525, 526.

The two Justices of the Peace which have the oversight of the amerciaments, upon suggestion may make processe as in the trespassse against the offenders of that statute to answer before them. 11. H. 7. 15. Lam. 360.

No processe is to be awarded by the Justice after outlawry, but they are to certifie the outlawry into the Kings Bench. Lam. 521, 522.

Processe upon informations must be such as the statute whereupon they are grounded doe appoint. Lam. 528.

The Sheriffe or his minister that hath arrested, or caused any fine, ranome, or amerciament to be levied by reason of indictment or presentment at the Sheriffes turn or law day without processe from the Justice, loseth 40 pound. 1. E. 4. 2. Lam. 521.

Informations made in the Sessions that an ale-house-keeper hath done any thing whereby he hath forfeited his recognizance, the Justice of Peace may award processe against him, to shew cause why he should not forfeit his recognizance, Lam. 524. but *quere* what processe. 529.

Processe cannot be awarded by the Justice of Peace upon any forfeited recognizance, except ale-houses, but hee must certifie them to the higher Courts. Lam. *ibid*.

Justices of Peace where the servant departed, may award a *Capias* to the Sheriffe of the shire whereinto he departed, returnable before themselves. 5. Elis. 4. Lam. 525.

Iustices of Peace cannot acquit felons by proclamations, or without sufficient requital; and if they cannot endite them, they must remain till the goal-delivery. *Lam. 549. 550.*

The forme of proclamations to remove a force upon a writ upon the statute of *Northampton*, vide *Lam. 168, 169 Dal 61. 62.*

Constable, if any affray be dangerous, may make proclamation. *Lam. 132. Dalton 33.*

One Iustice of Peace may make a proclamation in the Kings name to stay a riot. *Lam. 183. Quere,* for the statute 1. *M. 12. 1. Elis. 19. Poole 194.* are expired.

Iustices of Peace at every Sessions use to make proclamation, that if any will informe for the King, he shall be heard. *Lam. 520.*

Proclamation annexed to the statute of 4. *Hen. 7. 12.* is to be read every Qu. Sessions, or every Iustice present loseth 20 shill. 4. *Hen. 7. 12. Lam. 633. Quere* if of force now.

Promoters, vide Informers.

### Prophefying.

Prophefier with intent to make rebellion, or other disturbance in the Realme, being convicted thereof before the Iustice of Peace, shall bee imprisoned one year without baile for the first offence, and forfeit also ten pound; for the second offence imprisoned all his life, and lose all his goods and chattels real and personall, to be published within six moneths. 5. *Elis. 15. Lamb. 415, 416.*

### Purveyors.

If purveyors, caterers, or servants of any man but the King, take anything without the owners will, or as they can agree & make present payment,

It is felonie. *Lam.* 231. *Dal.* 278. *Crom.* 48. a.

Purveyour shall not take cart or other provision of any Prelate or Clerk.

Purveyour, his deputie, undertaker, or servant, maketh purveyance without warrant, of any thing above 12 pence, without consent of the owner, it is felonie. 2 & 3. *P. & M. cap.* 6. *Lam.* 422. *Dal.* 278. *Cro.* 48. a.

Purveyour taking any carriage in other manner than is comprised in his Commission, it is felonie. 36. *Ed.* 3. *cap.* 2. *Lam.* 423. *Dal.* 278.

Or any purveyour without Commission under the great Scale, *Dal.* *ibid.* *Cro.* 48. b. it is felonie.

Or make purveyance of goods above 12. pence, without testimony and apprizement of the Constable and foure honest men of the town, and without delivering tales or indentures under his scale testifying his purveyance, it is felonie. *Lam.* 423. *Dal.* 278. *E.* 3. 2. 25. *E.* 3. 1. 2. *H.* 4. 14. *E.* 30. *H.* 6. 8.

*Quere* if it be but of the value of 40. shillings or under. *Quere* by whom the apprizement shall be made, and between whom the Indentures shall be made. *Dal.* 279.

To take more victuals or carriages for the Kings house, than he shall deliver to the same house, is felonie. *Dal.* 278.

To take sheep in their wools betwixt Easter and Midsummer at small prices, and to carry them to his own house to sheare them, *Lam.* 423. *Dal.* 278. 23. *E.* 3. 15. is felonie.

*Quere* if the felonie of purveyours by 36. *E.* 3. b. be not altered by 23. *H.* 6. 1. & 2.

Purveyour taking any thing of 40 shillings, or under, without present payment, loseth double the value of the thing taken; and the Constable

upon request made, nor aiding him to resist the purveyour so taking, loseth double damages.

And any of the Kings officers procuring any to be arrested or vexed for such resistance, loseth 20. pound. 20. *Hen. 6. 8. & 23. H. 6. 2. Lam. 438.*

Purveyour taking any thing of any man to spare him, is to be imprisoned two yeares, pay treble damages, and ransome, *Lam 439.*

Purveyour taking corn by other measure than the stricken bushell, or by any more than eight such bushels to the quarter, & that hath taken carriages therefore without making ready payment, is to bee imprisoned one yeare, and pay 5 pound unto the King, and 5 pound unto the partie. 25. *E. 3. 1. 36. E. 3. 3. & 1. Hen. 5. 10. Lam 439.*

Purveyour of timber or his deputie, causing any timber to bee felled fit for barking, but onely in barking time, except trees for building or repairing the Kings ships or houses, or having taken any profit by the lops, tops, or barks of any trees, or having taking from the owner any more of any tree than onely the timber, loseth 40 shillings for every tree. *Lam. 438, 439. 1. Jac. 6. 22.*

Dockets of Purveyours ought to be delivered over to the Justice of Peace at the next generall Sessions, and by the Justice to be certified to the Treasurer of the Kings household, 2. & 3. *P. & M. 6. Lam. 614.*

Purveyour taking any provision for the Kings house by force of his Commission, and selling away the same, his first taking is extortion, and he is punishable as a trespasser, if not as a felon. *Dalt. 379.*

Undertakers, deputies, servants, and all other which, under colour of the Kings Commission to the

## Rape, or ravishment. 185

the Kings purveyours, doe take any victuals against the statute, are liable to the paines therein mentioned against purveyours. 2. & 3. Ph. & M. 6. Cro. 48. b.

Justices of Peace are to certifie to the Treasurer of the Kings household the dockets of purveyours (brought to their Sessions by Constables) that the serving of such Commissions, and the true answering of purveyances may be better examined thereby. Lam. 590. 2. & 3. P. & M. 6.

## Putting out of eyes.

Upon malice prepened to put out any ones eyes, is felonie. 5. H. 4. 5. Lam. 420. Dal. 276. Cro. 49. 2. Lam. 256.

## Quarter-Sessions, vide Sessions.

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## Rape, or ravishment.

**D**Eflowring of a maid under ten yeares old, with or without consent, is felonie without clergie. 18. Elis. cap. 6. Lamb. 256, 421. Dal. 281. Cro. 47. b.

Ravishing of a woman against her will, without consent either before or after the fact, or being with force, though after she doe consent, is felonie without clergie. West. 2. cap 34. 18. Elis. 6. Lam. 256, 241. Dal. 281. Cro. 47. b.

To be present and aiding the ravisher, is rape. Lam. 258. Dal. 281. Cro. 47. b. Stam. 24.

No rape where the partie deflowred conceiveth with

with childe. *Lamb.* 257. *Dalt.* 281. *Crom.* 47. b. *Stam.* 24.

Deflowering of one kept as the deflowers concubine, is no rape; otherwise of another mans concubine. *Lam.* 257. *Dal.* 282. *Cro.* 47. b. *Stam.* 24.

Force without carnall knowledge is no rape. *Lam.* 257, 258.

See the stat. *de Officio Coronatoris* made 4. H. 1. *Glouc.* 115. *Fleta.* lib. 3. c. 5. Complaint must be made within 40 dayes, but otherwise in an appeale.

A woman that is ravished ought presently to levy hue and cry, and to complaine thereof presently to some credible persons. *Dalt.* 281. *Crom.* 100. a. *Stam.* 22. in Indictment of rape no time to be observed.

To ravish a woman who consenteth for feare of death, &c. is ravishment; for consent ought to be voluntary and free. *Dal.* 281. *Cro.* 48. a.

Rates, vide Taxations.

### Records.

To rase a record is felonie; yet if a Iudge doe embezell or rase a record, it is but misprision in a Iudge. *Dal.* 279. 2 R. 3. 9. 10. *Br. Coron.* 174.

Embezelling of any record, writ returnable, pannel, processe, or warrant of Attourney in Chancery, Kings Bench, Exchequer, Common pleas, or Treasurie, is felonie in the parties, their counsellours, procurers, or abettors, *Dal.* *ibid.*

But it seemeth that Iustices of Peace have not to doe with these felonies. *Dal.* 278. 280. *Lam.* 449. *Cro.* 56. 3. 8. *H. 6.* 12.

### Rebellious assemblies.

The statutes 1. Mar. 12. and 1. Eliz. are discontinued. *Dal.* 218. *antea.* 190.

Recogniz



Recognisance is a bond of record testifying the recogniser to ow a certain summe of money to some other, and the acknowledgement of the same is to remain of record, and none can take it but onely a Iudge or officer of record. *Dal.* 326.

Every recognisance taken by a Iustice of Peace, must bee made by these words *Domino Regi*, upon pain of imprisonment of any person that shall take it otherwise. *Dal.* 327-33. *H.* 8.39. *Cro.* 196. b. 102. & 103. *Lam.* 162 *Dal.* 171.

Sureties in recognisances ought to be subsidie men, and they must bee two besides the partie himselfe. *Lam.* 101.

It is in the discretion of a Iustice of Peace, if hee take a recognisance *ex officio*, to appoint or allow the number of the sureties, their sufficiency in goods and lands, the summe of money, and how long hee shall be bound. *Dal.* 170. *Lam.* 100.

If a Iustice of Peace be deceived in the abilitie of the sureties, he may compell the partie to put in another. *Lam.* 101.

Recognisance of the Peace, without expressing in the condition that it was for keeping of the Peace, seemeth void. *Lam.* 103. *Dal.* 171.

So it is if a recognisance be that a recogniser shall not maim or beat *A*, without expressing keeping the peace. *Lam.* 103. *Dal.* 171.

Recognisance comprehending no time of appearance, but generally to keep the peace, is good. *Lam.* 103. *Dalt.* 172.

Recognisance for the peace upon a *supplicavit*, is not of necessitie to be returned untill *certiorari*. *Lam.* 109. *Dalt.* 173.

Recognisance taken to keep the peace against one especially, *quare* if it be good, *Lam.* 104. *Dal.* 172. *F.* n. Br. 809. *Crom.* 141.

Recogni-

Recognisance taken *ex officio*, may be removed by *Certiorari*. *Lam.* 109. *Dal.* 173. *Regiller* fo. 90.

Recognisance not forfeited is discharged by the death of the King, the cognizer or the partie suing for it, if it were against him alone. *Lam* 113. 1. H. 7. 2.

The sureties dying, the recognisance is good against the executors. *Lam.* 113. 21. E. 4. 40.

Recognisances taken are to be certified notwithstanding the death of the King, *Lam* 113. or of the recognizer, or of the partie at whose suit it was granted. *Lam.* 114.

The recognisance being forfeited, the Justices shall in discretion require new sureties, or commit him to prison. *Lam.* 114.

Recognisance of the Peace brought into the *Custas Rotularum* and not pursued, may be called upon for the King by the Clerk of the Peace. *ibid.*

Justice of the Peace cannot award proccesse upon a forfeited recognisance, but it must be certified into the higher court, except recognisance for alehouses. *Lam* 528. *Dal.* 173. *Cro.* 167. and the cause of the forfeiture. *Dal.* 172.

Recognisances or examinations taken concerning suspects or felons, are to be certified at the next generall goal-delivery. 2. & 3. P. & M. 10. *Lam.*

Recognisances taken by a Justice of Peace *ex officio*, are to be brought into the *Custas Rotularum* at the next generall Sessions, *Lam.* 109. *Dal.* 173. *Cro.* 139. 2. but no pain by the Statute of 3. H. 7. 1. if he do not. *Br.* Peace 11.

None but the King can pardon a recognisance once forfeited. *Lam.* 113.

Reconciliation, *vide* Treason.

Records bee nothing else but memorials or monuments of things done before Judges that have credit in that behalfe. *Lam. 63.*

If a record say any thing, no man shall be received to averre or speak against it. *Lam. 63.*

The Judges may correct or amend any record in the term wherein the record is to be made, but after they have no power at all over them. *Lam. 64.*

The record or testimonie of a Justice of Peace is in some cases of greater force than an enditement of a Jury, and against it the party shall not be admitted to traverse. *Lam. 65.*

Embezelling of a record is felonie, but not to be dealt withall by a Justice of Peace. *Lam. 231, 549.*

Precepts for iuritie of the Peace, speciall records for conviction of forcible entries made out of the Sessions, are not records of Sessions. *Lam. 389.*

Records of causes determinable at the Sessions taken by the Justices of Assize at their goal-deliverie as Justices of Peace, are to be left with the Clerk of the Peace to bee brought to the next Sessions of the Peace. *Lam. 391.*

One pleadeth a record before other Justices by way of justification, the justices ought to give him day to bring in the record. *Lam. 552.*

A Justice of Peace upon a Commission being convicted by oath of twelve men of embezelling, wilfull raising of an enditement, or maliciously inrolling that for an enditement, which was not found, or changing an enditement of trespassse into an enditement of felonie, loseth his office, & shall be fined and imprisoned according to his offence.

### Recusants.

Wilfully absenting themselves from Church 12 moneths contrary to 1. *Eliz. 2.* and convicted, being  
of

of 16 yeares of age, are to be bound to the good behaviour, upon certificate of one Iustice of Peace to the Kings Bench. 1. *Elif.* 2. besides other penalties. 23. *Elif. Dalt.* 80. 105.

Every Iustice of Peace may give notice to any person to forbear to receive or keepe such as shall obstinately refuse to come to the Church by the space of a moneth. 35 *Elif.* 1.

Heir of a Recusant being a Recusant at his ancestors death, conforming himselfe, and taking the oath of Supremacie made 1. *Elif.* before the Archbishop or Bishop of the Diocesse, shall be free from penalties for the recusancie of his ancestor. 1. *Iac.* 4.

Heir of a Recusant being under 16 yeares at the death of his ancestor, at or after 16 yeares becomes a Recusant, he is not to be freed of his ancestors penalties for recusancie, till conformitie as aforesaid. 1. *Iac.* 4.

Two parts of Popish Recusants lands being seised for payment of 20 pound a moneth, the third is not to be charged with it, but is to descend to his heir, and the two parts to remain in the kings hands till he be satisfied therof both for the ancestor and heir. 1. *Iac.* 4.

Any sending his children beyond the seas out of the Kings dominions to any religious house, to bee instructed or strengthened in Poperie, loseth 100 shill. and the person so going, or being there, and not returning in one yeare, is disabled to inherit, purchase, or take any lands or goods in his Majesties dominions, till conformitie. 1. *Iac.* 4.

Estates in trust for benefit of any sent beyond the sea to any religious house to be instructed in Popery, are void. 1. *Iac.* 4.

For

Forfeitures upon the Statute of. 1. Jac. 4. against Popish Recusants, half to the King, and half to the suer in any the Courts of record at Westminster by action of debt, &c. 1. Jac. 4.

Popish Recusant conforming himselfe in cōming to Church according to the law, & after convicted for not receiving the Sacrament once every yeare, loseth for the 1 year 20 pound, for the second yeare 40 pound, for the third yeare 60 pound: And if after conformitie in receiving the Sacrament, he offend therein, he loseth for every offence 60 pound, one moytie to the King, the other to the Informer, to be recovered in any of the Kings courts at Westminster or before the Iudges of Assize, or Iustices of the Peace at their Qu. Sessions by action of debt, &c. 3. Jac. 4. Lam. 418.

Constables and Churchwardens, or for want of them, the high Constable once every yeare, are to present the monethly absence of Popish Recusants from Church, with the names of the servants and children above 9 yeares old, or lose 20 shill. for every offence, and upon their conviction to have 40 shill. out of their goods. 3. Jac. 4.

Clerk of the Peace is to record the presentment of Constables & Churchwardens for monethly absence from Church, without fee, or loseth 40. shill.

Offences upon any statute for not going to Church or receiving the Sacrament, may be heard and be determined by the Iustices of Peace at their Qu. Sessions, as Iustices of Assize might before 3. Jac. 4. Lam. 617.

Upon an enditement for not cōming to Church, or not receiving the Sacrament, Iustices of the Peace at their Qu. Sessions may by proclamation command the indicted to render his body to the Sheriffe

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Sheriffe before the next *Qu. Sessions or Assizes*, and in default of appearance, then the same to be a sufficient conviction. *3. Jac. 4. Lam. 616.*

Popish Recusant convicted of not coming to Church according to law, shall in Easter or Michaelmasse term next after the conviction, pay into his Majest. receit after the rate of 20 pound a moneth, and so to continue without any other enditeiment, till he conform himselfe, and in default of payment, all his goods, and two parts of his lands to bee seized till conformitie, leaving the mansion house to the third part. *3. Jac. 4.*

The King seizing two parts may not let it to any Recusant nor for their use, and the lessee must give security to the King, not to commit waste. *3. Jac. 4.*

Enditeiments against Popish Recusants are not to be avoided for want of forme untill conformitie. *3. Jac. 4.*

Iustice of Peace may heare and determine all offences against the statute. *3. Jac. 4.* except treason. *3. Jac. 4. Lam. 617.*

Attainder of felonie upon the statute of *3. Jac. 4.* of Popish Recusants, barreth not dower, nor corrupteth blood. *3. Jac. 4.*

Any pursued for doing any thing warranted by the statute of *3. Jac. 4.* may plead the generall issue, and give the speciall matter in evidence. *3. Jac. 4.*

Husband is not chargeable with the forfeiture of the wife upon the statute of *3. Jac. 4.* for not receiving the Sacrament, nor the wife after his death. *ged.*

Popish Recusant convict, coming to the Court where the King or his heire apparant is, without the Kings command, or warrant in writing from the Counsell, loseth 100 pounds. *3. Jac. 5.* the one halfe to the prosecutor.

**Recusants**

... whipped to be sent from parish to parish by the officers of the same, the next way in the ... person was borne ... it ... knowe; it not to the parish where ...



Recusants convict or other forbearing for three moneths to heare divine service, now dwelling in London or within 10 miles (except tradesmen having no other dwelling) are to depart within 40 dayes, and if they come to dwell there within 3 moneths, then to depart within 10 dayes after conviction, and to deliver their names to the Maior of London or the next Justice of the County, or lose 100 pound, 3. *lac. 5.* the moytie to the prosecutor.

Every one not repairing every Sunday to some usual place appointed for Common prayer, there to heare Divine service, upon conviction within one moneth after default, upon confession, or oath of one witness, one Justice of Peace may call the offender before him, and if he cannot satisfie the Justice by excuse for his absence, the Churchwardens by warrant from the Justice of Peace, may levie 12 pence for every default by distresse and sale of the offenders goods; and in default of distresse the Justice may commit him till hee pay it, which is to be employed for the poore. 3. *lac. 4. Dal 106. 11. Co. 61. b.*

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the same, retain in their service any absenting themselves a moneth together from Church without reasonable excuse, lose 10 pound a moneth. 3. *Jac. 4.*

The King or five Lords of the privy Councell may by writing under the hands of the privie Councell license a Popish Recusant confined five miles, to travell out of his compassie for such time as is contained in the license, without inserting any cause. 3. *la 5.*

Popish Recusant confined to five miles, informing upon oath four Justices of Peace that he hath necessary occasion to travell further, and that he will make no causelesse delayes, they with the assent of

the Bishop of the Diocese, Lieutenant or his deputy under their hands and seales, and specifying in their license the cause and time of travell, may by license under their hands and seales give liberty to him to travell forth of his compasse, all other licenses to be void; and any travelling without such license, not having taken such oath, shall forfeit as a Recusant convicted by the statute of 35.El.2.3.lac. 5. *Dal.* 109. *Lam* 365.

Statute 35.El.2. confining Popish Recusants to certaine limits is hereby confirmed, and the proviso for licensing them to goe beyond their limits is hereby repealed. 3.lac. 5.

Popish Recusants convicted, are not to practise the common or civill law, nor physicke, nor to execute any offices, places, or trades belonging to any of them, nor to be Minister or officer in any Court, nor to have any place of command, or office in warre, nor any office or charge in any ship, castle or fortresse of the Kings, on paine of an 100 l. one moytie to the King, the other to him that will sue. 3.lac. 5.

Popish Recusant convicted, or whose wife is a Popish Recusant, during recusancy not to execute any publike office or charge in the Realme.

Married woman being a Recusant convicted, whose husband is not convicted, not conforming her selfe according to law, forfeiteth to the King two parts of her dower and joynture, and is disabled to be executrix or administratrix to her Husband. 3.lac. 5.

Popish Recusant upon conviction is to bee adjudged excommunicate to all intents, except in being able to sue for or concerning his lands and leases not seised by the King. 3.lac. 5.

Recusant convicted, married otherwise than by a Minister lawfully authorised, and according to the orders of the Church, is disabled to be tenant by

courtesie upon conviction or confession by two witnesses or by two Justices of Peace, may cause the same to be levied by warrant under their hands and seales.

courtesie, or in dower, or by joynture, or to have widowes estate, or frankbanke, or any part of her husbands goods; and marrying any, by whom he is not entituled to be tenant by the courtesie, loseth 100 pound, one moiety to the King, the other to him that will sue. *3. Jac. 5.*

Childe of a Popish Recusant, not baptized according to the orders of the Church within one month after the birth, the father or mother, if he die within the moneth, loseth 100 pound, whereof one third part to the King, another to the poore of the parish, and the third to him that will sue. *3. Jac. 5.*

Popish Recusant excommunicated, buried otherwise than according to the orders of the Church, his executors or administrators knowing it or causers of it, lose 20 pound, one third part to the King, one third part to the poore of the parish, and one third part to him that wil sue for it. *3. Jac. 5.*

Popish Recusant convicted; during his conviction, to be from the ending of that Parliament disabled to grant any advowson, &c. or to present or nominate to any spirituall living, the same to remaine to the Chancellors of the Universities, according to the severall shires limited in that statute, so that they present none having a former benefice with cure; if they doe, the same to be void *3. Jac. 5.*

Penalties upon the statute of *3. Jac. 5.* against Recusants to bee recovered in any his Majesties courts of record by action of debt, bill, plaint, or Information, without essoine, protection, or wager of law. *3. Jac. 5.*

Married woman under Baroesse, convicted of not comming to Church, who doth not within three moneths after conformance her selfe, to bee committed by two Iustices of the Peace, one being of the Quorum, untill conformity, unless her husband pay 100 pound

pound a moneth to the King, or the third part of his lands. 7. *Iac. 6.*

The penalty of 12 pence, and of 10 pound a moneth shall be both of them payed by a Recusant convict. *Dal. 106. Coh. 11. 63. b.*

Two Justices of the Peace may require a convicted Recusant of small ability, who repairth not to the place of his dwelling, or place of his birth, there to notifie himselfe to the Minister and Constables according to the statute of 35. *Eliz.* or afterwards remove 5. miles from the same (if upon apprehension he conforme not within 3 moneths) to abjure the realme and assigne him his time and haven. 35. *El. 2. Dal. 109.*

### *The forme of the Oath.*

*You shall swear you shall depart this Realme of England, and all other his Majesties dominions, and that you shall not returne hither or come againe into any of his Majesties dominions without license of our Sovereigne Lord the King, or of his heires; so help you God. Dal. 109. Stam. 119.*

Every such Recusant that refuseth to abjure, or after abjuration doth not within the time appointed goe to such haven and depart, or after such abjuration returneth without his Majesties speciall license, in every such case shall be adjudged a felon. 35. *El. 2. Dal 109. Lam. 419. 1. Iac. c. 25.*

The Justices of Peace before whom such abjurations shall be made, must presently cause the same to be entred at the next generall goal-delivery in the said county. *ibid.*

The Bishop of the diocesse or any one Justice of Peace, or Minister of the parish where such convicted Recusant shall be, may require his submission. *ib.*

Justices of Peace at their Quarter Sessions may require, heare and determine of all Recusants both for not comming to Church, and not receiving the Sacrament

Sacrament according to law, as Just. of Assize and goal-delivery may doe, and at the Sessions (in which such inditement shall be taken) make proclamation to render their bodies to the Sheriffe, and before the next Quarter Sessions, at which if the offender make not appearance of record, it shall be a conviction.

3. Jac. 4. Lam. 616.

### Regtratour.

Regtratour is hee that buyeth live or dead victuals, tallow, or candles in the market, and selleth the same there, or within 4 miles. 13. El. 25. Lam. 450.

### Release.

Justice of Peace compelleth one of his owne motion to give surety of the Peace untill a certaine day, he may by like discretion release it before the day. Lam. 110. Dal. 175. Cro. 139. b.

Party bound generally to keep the Peace without any day limited, it is for life, and no man can release it. Lam. 110. Dal. 175. Cro. 142. b.

Recognisance is taken at the suit of A to keep the Peace against him onely, A may release it before the same Justice or any other that will certifie it. Lam. 110. Dal. 175. Cro. 139. b. 169. a. That release being certified at the next Quarter Sessions will discharge the party bound of his appearance, so that he shall not be called upon for his recognisance. Dal. ibid.

Recognisance is taken *versus cunctum populum*, *principue versus A*; yet A may release it before any Justice: *tamen quare*, Lam. 110. Dam. 176. Cro. 142. b. 21. E. 4. 48. Br. Peace 17.

Recognisance is taken by discretion or upon suit, the King cannot release or pardon it before forfeiture. Lam. 111. Dal. 177. Cro. 140. b. 141. a.

The Peace being released, the recognisance must not

not be cancelled, but certified at the Sessions with the release, lest peradventure the Peace was broken before the release made. *Lam. 111. Dal. 176. Cro. 1.*

Whether the good abearing taken upon complaint may be released by any speciall person. *Quere Lam. 123. Dal. 193.*

Neither the Iustice of the Peace, nor the party can discharge the recognisance of the Peace by the release out of the Sessions; for first the recognisance is made by the King, and therefore none but the King can reelease or discharge it. Secondly, the recognisance is taken for the parties appearance, and the release cannot discharge the appearance. *Dal. 176.*

The appearance is requisite, notwithstanding any release made; first, for the safety of the recognisance; secondly, that others may object in open Sessions, if he have broken the Peace, that he may bee endited thereupon. *Da 176. contra Cromp. 139. b.*

If the Iustices of Peace at the Sessions doe certifie the release, by this the obliged is discharged, and shall not be called upon for his recognisance, nor his default recorded; for the principall cause of the recognisance was the keeping of the Peace, the which is discharged by the release which is certified at the Sessions, and then the appearance is but accessary to the same, and the intent is onely that then he should finde new surety if the party will not release; and this is the common usage.

*Vide plus Recognisance, et Forfeiture.*

### Religious houses.

The owner of the site of a religious house dissolved, in yearly value under 200 pound, must keepe a continuall house there, or lose 20 nobles a moneth, to be enquired of at the Quarter Sessions, 27. H. 8. 22. 3. El. 2. *Lam. 471.*

Replevin

Replevin, *vide* Bailment.

## Rescous of a Felon.

Rescous is to helpe a prisoner to get away; and if it be a felon, it is felony. *Lam. 229. Dal. 272.*

Rescous of a felon before arrest, is no felony, *Fitz. 14. 23. cont.* otherwise after arrest. *Lam. 230. Dal. 272. Quere. 9. H. 4. 1. Stanf. 31. B. quere Corone 333.*

Rescuing a prisoner going to the gallowes, is felony. *Dal. 272.*

A warrant being granted by a Iustice of the Peace for unlawfull hunting of Deere or Conies, to make rescous thereupon, is felony. *Dal. 76.*

Rescous against an officer or person authorized to execute the statute of 39. *El. 4.* loketh 5 pound, and is to be bound to his good behaviour. *Dal. 128.*

## Restitution of Possession.

None shall have restitution but such as are put out of house or land. *Dal. 210. Cro. 162. b. Lam. 153.*

If it be found upon enquiry that any have entred or held with force, contrary to the statute 8. *H. 6. 9.* the Iustice of Peace may rescise and put the party so put out in full possession. *Dal. 208. Cro. 161. b.*

The Iustice of Peace needeth not to stay or stand upon the right or title of either party. *Dal. 210. Cro. 161. b. 164. a.*

No restitution is to be made where there was once a possession in law. *Lam. 153.*

In a restitution it is not enough that the putting out be found, unlesse the enditement do also contain in it *ad huc extra tenet.* *Dal. 210. Cro. 163. b. Lam. 153.*

Restitution ought to be made to none other than the party put out. *Da. 210. Cr. 162. b. Da. 183. Lam. 153.*

After the entring or detaining with force found, the Iustice of Peace may by himself or precept to the

## 200 Restitution of Possession.

Sheriffe under the test of himselfe alone restore the partie grieved to his possession. *Dalt. 212. Lam. 156.*

None can make restitution but they before whom the inditement is found, but the Justices of the Kings Bench, either upon certificate made by the J. of P. before whom it was found, of the presentment, or if the said presentment or enditement be removed by *Certiorari*. *Dalt. 212. Lam. 157. 158.*

If the Sheriffe returne upon a precept or writ of restitution that hee cannot make restitution for resistance, he shall be amerced, for he may take the power of the county. *Dalt. 212. Lam. 157. Cro. 163. b.*

Justice of Peace before whom the presentment was made, dyeth before restitution; *quere*, whether the Justices at the Sessions can award it. *Lam. 157. Dyer 187.*

Justices of Peace ought not to award restitution where the enditement is sufficient in law, either in matter or forme. *Dalt. 211.*

In the enditement 1. not onely an entrie must be, but also a putting out: 2. the enditement must expresse the quality of the thing, (*viz.*) whether it be messuage, cottage, meadow, pasture, wood, or land arable: 3. it must say *Et adhuc extra tenent*: 4. *Expulerunt et adhuc extra tenent*: 5. one of these two words *manu forti*, or *cum multitudine*. *Dalt. 210. 211. Cro. 169. b. Lam. 153.*

If error or insufficiency be in the enditement taken before Justices of Peace, and restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *superfideas* if the Sheriffe have not made restitution before. *Dalt. 311. Cro 162. a.*

If restitution be made by Justice upon insufficient enditement, and it be removed into the Kings Bench, the Court will restore the party put out by the Justice



## Restitution of stolen goods. 201

Justice of Peace. *Dalt.* 211. *Cro.* 168. 2.

1. No restitution upon an enditement to be made, if the party endited hath had the occupation or been in quiet possession three yeares together next before the day of the enditement found, and his estate not ended, which the party may alledge for stay of restitution, untill it be tryed, if the other will traverse or deny the same. 31. *Eliz. cap.* 11. *Dal.* 214.

2. *Certiorari.*

3. A traverse: *quare Lam.* 158.

4. Insufficiency of the enditement.

5. Insufficiency of the Jurors not having 40 shill. land by the yeare *Dal.* 214. *Lam.* 152. *Crom.* 165.

Justice of Peace, upon enditement found, may give restitution as formerly to free-holders, to tenants for yeares by copy of court, guardians in Knights service, tenants by *elegit*, stat. Merchants or staple. *Dal.* 203. 21. *Jac.* c. 15.

## Restitution of stolen goods.

He that hath goods stolen, if the felon be thereof endited and arraigned, and found guilty thereof, or otherwise attainted by reason of evidence given by the party robbed, or the owner of the goods, or other by their procurement, then the goods shall be restored though they never made fresh suite. *Dal.* 298.

And the Justices have power to award writs of restitution. 21. *H.* 8. 11. *Lam.* 586. *Dal.* 298. *Cro.* 191. a. *Br. Restitution* 22.

Executors shall have restitution after attainder or conviction upon evidence by their meanes given. *Dalt.* 298.

Three are robbed, restitution shall be onely to such for whose goods the felon was endited. *Dal.* 298. *Cro.* 191. a.

A felon stealeth from severall men, is attainted onely

only at the suit of one ; the King shall have the goods of those, at whose suit hee was not attainted. *Dal.* 298.

There be divers theeves, and onely one principall is attainted, the robbed shall have restitution. *Dal.* 299.

If the felon sold the stolen goods in market overt, or in a faire, no restitution, except hee that bought them were privy to the felony. *Ibid Cro.* 191. a.

No restitution of stolen goods, if hee know not the felon. *Dal.* 299.

No restitution if the felon leaveth the goods and escapeth, and the Lord of the Manour seileth them. *Dal.* 299.

If the felon had not the goods in his possession when he fled, but left them elsewhere, they are not waived, but the owner may take them wheresoever he findeth them. *Dal.* 299. *Co.* 5. 109.

### Returne.

Recognisance taken by the Iustice of Peace *ex officio*, ought to be returned at the next *Qu.* Sessions. *Supplicavit* is to be returned into the Court whence it came. *Lam.* 107. *Dal.* 173.

Returne of a recognisance-upon a *supplicavit*, is not of necessity till *Certiorari*. *Lam.* 109.

Returne of Iurours, *vide* Iurours.

*Vide* Recognisance, & Release, & Certificate.

### Riots.

Riot is where three or more persons be disorderly assembled to commit with force any unlawfull act, and doe accordingly execute or attempt the same. *Lam.* 176, *Dal.* 217. *Cro.* 61. a.

*what*

*What assemblies shall not be said a Riot.*

1 Sheriffe or Bailiffe levie people to serve the Kings writs. *Lam. 178. Dal. 219.*

2 Constable gathereth assistance of men with weapons to part an affray. *Lam. 178.*

3 A man threatned to be beaten in his house, assembleth company with force or otherwise, or threatned to be beat as he goeth to market. *Lam. 179. Dal. 220. Cro. 69. a.*

4 Many assemble together, and they know not to what end. *Lam. 179. Dal. 218. Cro. 6. b.*

5 Many assemble at a Church-ale, or at a Christ-masse dinner, and they suddenly fall out and fight. *Lam. 179. Dal. maketh quare 219.*

6 A number of women and children under the age of discretion flock together for their own cause, unlesse moved by a man of discretion to doe some unlawfull act. *Lam. 180. Dal. 222.*

7 To gather meet company to carry away a piece of timber which will not be moved without a good many, whereto I pretend right, though in law it bee anothers, *Lam. 178.* yet if he use threatning words, as to say he will have it in spight of the other, or though he die for it, his doing may then become a riot. *Ibid. Dal. 221.*

8 To meet to drinke at an ale-house, to play at football, bucklers, beare, or bul-baiting, dancing, bowles, cards or dice, or such like disports. *Dal. 219. Cro. 61. b. Lam. 178.*

9 To use harnesse on Midsummer day at night in London, or on May-day in the countrey. *Lam. 178. Dal. 219. Cro. 64. b.*

The Master intending a riot, taketh with him his ordinary servants who know not his intent, it is no riot in the servants. *Lam. 179. Dal. 219. Cro. 61. b. 62. a.*

A Jury falleth out and fighteth, it is no riot. *Dalt.* 219. *Lam.* 180.

If any assemble for any disorders, as aforesaid, with intent to breake the Peace, and make an affray, or doe other outrage, it seemeth to be a riot in so many as come with such intent. *Dalt.* 219.

*Quere* if falling out suddenly at such a meeting, and then falling to take parts, be a riot, *Dalt.* 219, 220. But if by agreement they meet againe and fight, it is a riot. *ibidem.* *Vide Crom.* 61. b. *Dalt.* 220.

It can be no riot, except there bee an intent precedent to doe some unlawfull act with force. *Dalt.* 218. *Cro.* 61. a.

Yet if a man goe to Sessions or market with his servants in harness, though there be no intent to commit a riot, yet the manner maketh a riot. *Cro.* 61. a. *Vide* 2. E. 3. cap 3. *Dalt.* 221.

### *What one l. of P. is to doe in case of Riots.*

He may prevent a riot before it be done, or stay it in the doing, and in the doing may take and imprison the rioters, and binde them to their good behaviour. *Dalt.* 110.

A riot being done, Justices of Peace can neither record the riot, nor make enquiry, nor assesse the fine, nor award processe, nor meddle with it, but onely as a trespassse against the Peace. *Dalt.* 110. *Lam.* 181.

Justices of Peace sitting in a judicall place, and seeing a riot, may command them to be arrested, and recorded, and it concludeth the offenders. *Dalt.* 110.

But a Justice of Peace in another place seeing a riot, and recording it, the parties may traverse it. *ibid.* *Cro.* 65. a.

Every Justice of Peace being of and in the county, having notice of any riot, ought to execute the statute 13. H. 4. 7. viz. that the rioters be arrested, &c.

2s. and removed, otherwise the next Justices forfeit 100 pounds a peece, and every other Justice in whom there shall bee default, fineable in the Starre-chamber. *Dal. 111. Cro. 124. a.*

One Justice of Peace may arrest rioters, enforce them to finde sureties for the Peace or good behaviour, or in default commit them to prison. *Dal. 110. Cro. 157. b. Lam. 181.*

A Justice of Peace not finding the rioters come to the place, may leave his servants to restrain the rioters when they come, or else arrest them if they offer to break the Peace. *Dal. 111. Lam. 181. Br. Peace 7.*

If the Justice of Peace be sicke, hee may send his servant to repress a riot, or to arrest such offenders, and bring them before him to finde sureties for the Peace, and his command by word is sufficient. *Dal. 111. Cro. 64. a. 148. b.*

One Justice of Peace may cause all statutes for suppressing of riots to be put in execution. *Dal. 111.*

If the riot be notorious, it is not safe to stay complaint or information. *Dal. 112. Dyer 210.*

***What two Just. of Peace may doe in a riot.***

They ought to send for the Sheriffe or Undersheriffe, if none of them come, *Dal. 112. Lam. 327.* If one or two next Justices doe come, and not the Sheriffe or Under-Sheriffe, such as come shall be excused of their fine of 100 pound. *Dal. 112. Lam. 327. Cro. 63. b.*

If one Justice of Peace in the county shall execute the statute of 13. H. 4. 7 it shall excuse the next Justices. *Dal. 112. Lam. 326. 327.*

Two Justices of Peace present without the Sheriffe, are fineable if they doe not all which by the statute of 13. H. 4. 7. ought to be done. *Dal. 112. Cr. 63.*

***The particulars which the two next Justices  
of***

*of Peace with the Sheriffe or Under-Sheriffe must doe upon the stat. of 13. H. 4. 7. Dal. 114.*

1 They must goe to the place where the riot is. *Dal. 114.*

2 They shall take the power of the county (*viz.*) all above 15 years of age, under the degree of Barons, vpon paine of imprisonment, fine and ransome. *Dal. 114. Cro. 157. Lam. 314, 315.*

It is good to raise the power of the county with certain information, (though it be false and excused) or without information, if when they come they find one. *114. Cro. 64. b. Lam. 315, 316.*

3 They shall arrest all such offenders, or cause them to be arrested, and remove the force, commit to prison the rioters, and take away their weapons. *Dal. 114. Lam. 326, 327.*

And all such as come into the company, if they be present; shall be arrested, imprisoned, and fined, as it seemeth. *Dal. 115.*

Such as they meet coming from the place riotously arrayed, they may arrest and imprison, but cannot record any riot done by them, but after enquiry may fine them. *Dal. 115. Cro. 63. a. Lam. 316.*

The Iustices see the riot committed, and the rioters escape; they must record them, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that proceſſe may come from thence. *Dalt. 115. Lam. 318.*

The Iustices may grant a warrant for such as they saw escaping, to be bound to the good behaviour. *Dalt. 115. Cro. 196. a.*

And so they may doe upon information, but it is best to doe it upon enquiry, and so to fine them. *Dalt. 115.*

In execution of the said arrest of rioters, the Iustices

stices may justifie the beating, wounding, or killing of any the rioters which resist or will not yeeld. *Dalt.* 115. *Cro.* 62. b. 158. b. *Lam.* 316.

4 After arrest the Iustice, Sherriffe or Under-sherriffe shall record the riot in writing, (*viz.*) all that shall be done in their presence against law, which ought to be formall and certaine, as time, place, number, weapons, manner, &c. *Dal.* 116. *Cro.* 63. a. *Lam.* 316, 317.

The forme of the record, *vid.* *Dal.* 397. *Lam.* 220.

If in going to see a riot, another riot happen in their presence, they may record it, arrest and imprison the offenders. *Dal.* 116. *Lam.* 318.

If the rioters make a riot upon the Iustices, they may record it also. *Dal.* 116.

Iustice records a riot, and upon examination it appears no riot, or saw it not, or there was no riot, yet the parties are concluded, *Dal.* 116. *Cro.* 63. a. 65. a. 130. a. *Lam.* 317. 9. *H.* 6. 60. *Fitz.* *Iust.* fo. 17.

The Iustices are presently to commit rioters to the goale, and the power of the country ought to bee aiding to the Sheriffe or Under-sherriffe. *Dalt.* 116, 117.

None may commit the rioters but the Iustices who had the view. 116.

If the Iustice, Sheriffe, or Under-sherriffe commit to prison the offenders and doe not record the riot, every of them loseth 100 pound. *Dalt.* 117. *Cro.* 61. b.

The said Iustice and none other shall assesse the fine upon the offenders, which by the statute of 1. *H.* 5. 8. ought to be of good value, that thereout the charges of the Iustice and other officers may bee borne, yet must bee reasonable and just. *Dal.* 117. *Cro.* 61. a. *Lam.* 317.

The fines must be imposed upon every offender severally. *Dal.* 117. *Co.* 11. 43, 44.

The fine must bee estreated into the Exchequer,  
*Dal.*

*Dal.* 117. and then to deliver the offender as it seemeth. *ibid.*

The J. as it seemeth, may out of the fines pay the charges of the said Justice, and of the Jury who made the enquiry, for their diet, and the Sheriffs fees; and the Justices Clerke who maketh up the record, may have his fees out of that money, or rather may take of every offender 12 pence when they pay their fines. *Dal.* 117, 118, 119.

Or the Justice may record the riot, commit the offender, and after certifie the record to the Assizes, Sessions or Kings Bench. *Dal.* 117.

The record may bee delivered at the Sessions to the Clerke of the Peace, together with the residue of the money remaining of the fine. *Dal.* 119.

Where Justices of Peace are remisse in punishing the rioters, the Lords in the Star Chamber may and doe after assesse greater fines for the same riot. *Dal.* 120. *Cro.* 63. a.

If the riot was not committed in the presence of the Justice, or the rioters gone before their comming, two Justices at least within one moneth next after must enquire thereof by a Jury returned by the Sheriffe, and record the riot being found, which is to remaine with one of the said Justices. *Dal.* 117. *Cro.* 124. a. *Ham.* 321.

The forme of such enquiry, *vide Dal.* 398. *Lam.* 329.

Enquiry shall not be unlesse the rioters bee gone. *Dal.* 118.

It is not necessary that one of the Justices of Peace be of the Quorum. *Dal.* 118. *Cro.* 62. b.

The enquiry may be made at any time after the moneth; but if it be not within the moneth, the Justices are in danger to lose 100 pound: yet if the Jury be charged within the moneth, and have day after



to give up the verdict, the statute is not broken.

*Dal. 118. Lam. 322.*

At the inquiry the Sheriffe or Under-sheriffe must be present, but then as Ministers onely. *Dal. 118.*

*Lam. 321.*

The Iust. assembled to enquire within the moneth, the parties agree, and the Iustices dismisse therupon the Iury, the Iustices shall be fined, though none will sollicite the Inquest or give evidence to the Iury; for the Iustices ought to proceed *ex officio*, seeing some of the Iury may have knowledge of the riot, and they ought to make proclamation if any will give evidence.

*Dal. 118. Lam. 322.*

If at the parties request the Iustice dismisse the Iury without enquiry, they are fineable in the Star-chamber to the King. *Dal. 118. P.R. 29.*

The Iust. may binde to the good behaviour the parties complaining of the riot, who caused them to meet and will not prosecute for the King, but have agreed it. *Dal. 119.*

Though the Iustices goe not to see the riot, yet they may enquire within a moneth after. *Lam. 321.*

After enquiry had and the riot found, the Iustices have power to heare and determine the same (*viz.*) first to make out processe against the offender under their owne test. Secondly, to assesse the fine. Thirdly, to commit till they have payed the fine. Fourthly, to deliver them after payment of their fine or sureties taken by recognisance, or otherwise they may receive their traverse, if the matter will serve, and dismisse them. *Dal. 119. Lam. 323. Br. Imprif. 100.*

But the Iustices should send such enditement or inquisition to the next Quarter Sessions or into the Kings Bench together with the said traverse there, to be tried. *Dal. 199. P.R. 30.*

If the riot upon enquiry cannot be found, the

Iustices and Sheriffe must certifie into the Starchamber, or Councell board, or Kings Bench, the whole fact and circumstance, with the names of the offenders *sub poena*, *Dal. 100. Lam. 323, 324. 13. H. 4. 7. 19. H. 7. 13. 27. H. 6. 5. Premunire Br. 1.*

The certificate must be made within a monerth after the enquiry, or else it is of no force. *Dal. 120. Lam. 324.*

Though two Iustices with the Sheriffe see the riot, yet two other Iustices may make the enquiry, and they all together, or the first two, or last two, with the Sheriffe, or Under-Sheriffe may make the certificate. *Dal. 121. Lam. 325.*

Where the severall certificates bee made, or certificate and enquirie doe disagree, the best for the King shall be preferred. *Dal. 121. Lam. 325. Crom. 63.*

If the Iury finde but some guilty, the Iustices may certifie the rest. *Dal. 121. Lam. 325.*

Any materiall thing left out in the inquisition, may be supplied in the certificate. *Dal. 121.*

*Quere* if after enquiry and before certificate the Sheriffe die, or one of the Iustices be put out of Commission, whether certificate be void. *Dal. 121. Vide Lam. 326.*

Upon the certificate of two Iustices and the Sheriffe, the Lord Chancellour may grant a *Capias* to attach the offenders. *Dal. 121. Lam. 328.*

Upon default of the Iustices and Sheriffe in not executing the statute *13. H. 4. 7.* the party grieved may have a Commission out of the Chancery, to enquire of the riot, as also of the Iustices and Sheriffes default, *Dal. 121. 2. H. 5. 8.*

### Rivers.

Every Iustice of Peace is a conservatour of rivers within his county, and may survey the weares in rivers that they be of reasonable wideness. *Lam. 189.*

Rogues.

Rogues.

All persons here under mentioned, being above the age of 7 years, may be punished as rogues. *Dal.* 123. 39. *El.* 4.

1 All going about begging about any pretence or colour, though licensed by any subject, except in some particular cases after mentioned. *Dal.* *ibid.* *Lam.* 442.

2 All going about the countrey using any lubrile craft or unlawfull games, as fortune-tellers, jugglers. *ibid.*

3 All projectours, patent gatherers, or collectours for prisons and hospitals. *Ibid.* 442.

4 All fencers, bearwards, common-players of interludes, and minstrels wandring abroad. *Ibi.* *Lam.* 443. 2. *1ac.* 7.

5 All pedlers, pety chapmen, tinkers, and glasse-men wandring abroad. 1. *1ac.* 7. *Dal.* *ibid.* *Lam.* 443. 21. *1ac.* 28.

6 All wandring labourers able in body, refusing to work for reasonable wages, having nothing but labor to maintain themselves. *Dal.* 124 *ibid.* *Lam.* 443.

But such as are of any parish, able to work for the usuall wages taxed in those parts, are to be sent to the house of correction. *Dal.* *ibid.*

7 Poore of the parish begging otherwise than is appointed them, or begging by high-ways, *ibid.* are to be sent to the house of correction.

8 All pretending to be Egyptians, not being felons. *Dal.* *ibid.* *Lam.* 443.

9 Soldiers or mariners that begge, except souldiers or mariners having a testimoniall from a Justice of Peace near the place of their landing, with the place of their dwelling or birth to which they are to passe, and a convenient time limited for their travell, and pursuing the said license 39. *El.* 4. or doe contravert any

certificate from their Generall, Governour, Captain, Lieutenant, Marshall, Deputy or Admirall. *Dal. 124.*

10 Diseased persons travelling to the Baths, and licensed, if they begge, or not licensed by two Iustices, or not returning as they are limited. *Dal. 124. Lam. 443.*

11 A rogue once whipped, not performing the order appointed by his testimoniall. *Dal. 124.*

12 A rogue going with a generall passport, not directed from parish to parish. *Dal. ibid.*

So a rogue carrying his owne passport without a guide. *Dal. 124.*

13 Servant departing out of service without testimoniall, *5. El. 4.* or taken with counterfeited testimoniall. *Dal. 124.*

14 Persons infected with the Plague, going abroad contrary to order. *1. Jac. 31. Dal. ibid.*

15 Persons able to labour, and relieve themselves and families, that runne away or threaten to runne away and leave their charge to the parish. *7. Jac. 4. Dal. 125. 21. Jac. 6. 28.*

16 Any calling himselfe a Scholar, that hath gone about begging. *Lam. 443.*

17 Any pretending losse by fire or otherwise, that wandring beggeth. *Lam. 443.*

18 Any delivered out of goale, that hath begged for see. *Lam. 443.*

Any Iustice of Peace may appoint any person to be openly whipped naked, even unto bleeding, that shall bee taken begging, wandring, or misordering himselfe, and is declared by the statute, *39. El. 4.* to bee a rogue, vagabond, or sturdy begger, and shall cause him so whipped to be sent from parish to parish by the officers of the same, the next way to the parish where such person was borne, if it can bee knowne; if not, to the parish where such Rogue last dwelt

dwelt before the punishment by the space of a yeare, there to labor; or not being known where he was born or dwelt, then to the parish through which hee last passed without such punishment, to whom the Justice shall under his hand and seale make a testimoniall witnessing his punishment, day and place thereof, and whither he is limited to travell, and by what time. And in case such place of birth and last dwelling be not found nor knowne, then such person shall by the officer of such village through which hee last passed without punishment, bee conveyed to the house of correction of the limit, or to the common goale; 39. *Eliz. 4.* there to remaine untill such person be placed in service for one yeares continuance, or not being able of body, till such person bee placed in some almes-house of that place or county. *Lam. 204, 205.*

Hee is an incorrigible rogue that misreports the place of his birth, and is to be sent to the house of correction in the county to which he is sent; and if there be none there, then to the goale untill the next Sessions: so if hee misreport the place of his last dwelling by the space of a yeare, if it appeare not where hee was borne. *Lam. 207. Ref. 12. Dal. 125.*

Husband and wife having an house, rogue about, they must bee sent to the towne where that house is; and so of an inmate. *Lam. 207. Ref. 3. Dal. 125.*

Wife, and children under 7 yeares being vagrant are to be placed with the husband; if the husband be dead, then where they were borne or dwelt last. *Lam. 227 Ref. 4, 9, 10. Dal. 125.*

Children vagrant above three yeares old must be sent to the place of their birth. *Ibid. Dal. 125.*

Vagrant persons and parents, with their children under 7 yeares of age, being once placed at the place of

birth

birth of their parents or last dwelling, the parents dying after, or running away, the children once settled must still remaine there. *Ibid. Dal. 125.*

Wife vagrant is to bee sent to her husband, though he be but a servant. *Lam. 208. Ref. 5. Dal. 125.*

Rogue, whose place of birth or dwelling cannot be knowne, hath wife and children under 7 yeares of age, they must bee sent with the husband to the place where they were last suffered to passe unpunished, and the children must be relieved by the worke of the parents, though the parents be sent to the house of correction. *Lam. 208. Ref. 6.*

Rogue sent to a town, and refused by the Churchwardens and Overseers to whom he is to be offered, is a forfeiture of five pound in the refuser. *Lam. 210. Ref. 12, 14. Dal. 128.*

Rogue sent from the place where he is taken, by a generall passport, without conveying him from parish to parish, is a let in the taming of Rogues, and a forfeiture of five pound. *Lam. 210. Ref. 13. Dal. 128.*

Rogue going with such a passport, continuing a rogue, is to be punished by whipping. *Ibid.*

By parents is to be understood father or grandfather, mother or grandmother, being able persons. *Lam. 210. Ref. 16.*

By children, any childe or grandchilde being unable. *Lam. 210. Ref. 15.*

Diseased persons living of almes, and travellers to Bath or Buxton for remedy, are to be licensed thereto by two Iustices of Peace, 39. *El. 4. Lam. 332. 1. fac. c. 25.* yet may not beg, but must be provided of maintenance for their travell. *Dal. 124, 127, 130.*

Forfeiture of offences against the statute 39. *El. 4.* upon conviction or confession by two witnesses before two Iustices of Peace, may cause the same to be levied by warrant under their hands and seales, by distresse

Strelle and sale of the offenders goods. 39. *El.4.Lam.*  
831. See 1. *Iac.2.7.*

All questions growing upon the statute of rogues,  
may be heard and determined by two Iustices of  
Peace, 39. *Eliz.4.Lam.359.* whereof one of the Quo-  
rum. *Dal.129.*

Constable or tything-man not doing his endeavour  
to apprehend rogues within their limits, or wilfully  
suffering them to escape unpunished, forfeiteth 20  
shill. for every offence; *Dal.128.* and 5. l. if they doe not  
convey them away towards their dwelling or place  
of birth. 39. *El.4.Lam.444.1.Iac.7.Dal.129.*

Rescous or hindering the execution of the statute  
39. *Eliz.4.* forfeiteth 5. pound, and is to be bound to  
his good behaviour. 39. *Eliz.4.Lam.444.Dal.128.*

Minister of the Parish not keeping a register of the  
testimoniall of rogues punished in his parish, and con-  
veyed thence, loseth for every default 5. shill. 39. *Eliz.4.*  
*Dal.129.*

Every one is to carry to the Constable such beggars  
as they shall know to come to their doores for almes,  
or lose 10 shillings. 1. *Iac.7.Dal.129.*

Iustices of Peace are to meet twice a yeare in their  
severall divisions, for the executing of the statute 7.  
*Iac.4.* against vagabonds, and 4 or 5 dayes before by  
warrant to command the Conitables of hundreds or  
townes by assistance of some of every towne, to make  
a generall privy search by night for finding and appre-  
hending rogues to be brought before the Iustices at  
their meeting by them, and punished, or sent to the  
house of correction. 7. *Iac.4.Dal.130.21.Iac.6.28.*

Constables at every meeting of the Iust. of Peace  
for the execution of the statute of rogues, are to give  
an account upon oath in writing, and under the hand  
of the Minister of the parish, what rogues, &c. they  
have apprehended both in the same search, and also be-

tween every meeting, and how many have been punished by them, or sent to the house of correction; and in default thereof, bee fined under 40 shill. as by the most of the Iust. shall be assessed. 7. *Iac. 4. Dal. 130.*

No man is to be put out of the towne where he dwells, or sent to his place of birth or last habitation, but only a vagrant rogue. *Dalt. 126. Resol. 9. Lam. 209.*

So of them whose termes of their houses are expired, and servants whose times of service are ended; for they must provide themselves houses anew, if they be not impotent for ever. *Dal. 126.*

Dangerous rogues are to be banished, or condemned to the galleys by the Iustices at their Qu. Sessions. 39. *El. 4. Lam. 427.*

Rogues by judgement of most of the Iustices of Peace in open Sessions adjudged incorrigible, ought to bee branded on the left shoulder with the letter R. and then to be sent to their dwelling; if they have none, then to their last dwelling place where they dwelt for a yeare; or if that cannot bee knowne, to their places of birth. 1. *Iac. 7. Vide plus House of Correction.*

### Robbery.

Robbery is a violent taking away of any goods from any mans person, with intent to steale them, *Lam. 267.* and putting him in feare thereby, though the thing taken be but to the value of an halfe penny. *Dal. 256. Cro. 33. b.*

But if a felon take money from me in the highway, and shall not put me in feare, it is not robbery. *Dal. 257. Cro. 34. b. Lam. 266. 5. El. 224. Dyer.*

If a thiefe take nothing from my person, but assault me, whereby he getteth any thing from me, it is robbery. *Dal. 256.*

As, 1. I cast my purse on the ground, and he taketh



keth it away, *Dal. 256. Lam. 268.*

2 After assault he prayeth me to give him a penny, and I doe so. *Dal. 256.*

3 If upon assault I deliver my purse, *Dal. 257. Cro. 34. a. Lam. 267, 268.*

4 If flying from a thiefe I cast my purse into a bush, and he doth after a day take it away. *Dal. 257. Cro. 34. b. 35. a. Lam. 268.*

5 If upon assault I flie away, and my hat fall, and and the thiefe carry it away. *Dal. 257. Cro. 35. a.*

6 If a thiefe bid me deliver my purse (without any force used) and I deliver it, and hee finding but two shillings in it, delivers it again, *Dal. 257. Cro. 34. b.*

7 If by threats hee compell me to sweare to bring him money, and afterward I bring him the money accordingly. *Dal. 257. Lam. 228. P. 36. El. adjudge.*

8 In some cases it is robbery, though the thiefe neither take it from my person, nor assault me.

As, 1 A thiefe taketh my goods openly in my presence against my will, the feare is the like as if it had beene from my person. *Dal. 257. Cro. 34. a. Lam. 269.*

2 To take a horse or a beast out of my pasture, looking on, if the felon put me in feare. *Dal. 257. Cro. 34. b.*

3 To make it robbery, the person must bee put in feare. *Dal. 257. Cro. 34. b.*

4 Two come to rob me, and one asteth it, being out of the sight of the other, who after returneth to him; it is robbery in both. *Dal. 257. Cro. 34. a. Lam. 270. 28. El. Fudseys case.*

To assault one to robbe him without taking any thing, is not robbery. *Dal. 256. Cro. 34. a. 9. E. 4. 28. Com. 259. b. p. was the Intent. and is not punishable.*

After a robbery committed, the hundred must answer the losse, if the robbers be not taken within 40 dayes: if it be done in the division of two hundreds both hundreds and the franchises within them must

must be answerable. *Dal.* 131. 27. *Eliz.* 13.

No person robbed shall bring any action upon the statute of Hue and Cry, except he be first examined within 20 dayes next before the action, and brought upon his corporall oath before some one Iustice of Peace of the county where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination if he confesse he knoweth any of them, then shall he before such action brought, enter into recognisance before the said Iustice, effectually to prosecute such persons by indictment or otherwise according to the due course of the lawes of this Realme. 27. *Eliz.* 13. *Lam.* 202. *Dal. ibid.*

After robbery committed, the robbed shall not recover against the hundred, except 1 with all convenient speed he give notice of the robbery to some inhabitant neare to the place where the robbery was committed.

2 He comence his action with a yeare and a day next after such robbery committed.

3 He be examined *ut supra*, *Dal. ibid.* before a Iustice of Peace.

The whole hundred must answer the robbery, if the robber be not taken within 40 dayes, and the hundred wherein defect of fresh suit is, one moiety. *Dal.* 132.

Any two Iustices of Peace in the hundred, one being of the Quorum, may assesse all townes and parishes in the said hundred and liberties therein, towards an equall contribution; which money the Constable must deliver to the same Iustices within ten dayes after collection, and they upon request, to those to whose use it was collected. *Dal.* 132. *Cr.* 197.2.

And the hundred shall be assessed in like sort in default of pursuit of fresh Hue and Cry. *Dal. ibid.*

Robbery in a house doth not charge the hundred, whether

whether it be done in the day or in the night. *Ibid.*

The hundred is discharged upon taking of any of the offenders by pursuit, *Del. 133.* so if the party robbed take any of the offenders after Hue and Cry made. *Del. ibid.*

Robbing a house or any out-house, as a barn or stable in the day, to the value of five shill. Robbing a house by day or by night, any person being therein, and thereby put in feare. Robbing any person in any part of his dwelling house, the owner or dweller, wife, children, or servants being in any place within the precinct of the same, sleeping or waking. Robbing any booth or tent in faire or market, the owner, his wife, children or servants being in the same, sleeping or waking. All these are as penall as Burglary. *Del. 279. Lam. 265. 39. Eliz. 15. 21. H. 8. c. 15. E. 6. 9.*

Rome, vide Pope. Co. 11. 36.

### Rout.

Rout is where three or more persons be disorderly assembled to commit with force, whether they put in execution their purpose or no, if they so doe goe, ride, or move forward after their first meeting. *Lam. 176.*

### Sacriledge.

Sacriledge is the felonious taking of goods out of any Church or Chappell. *Lam. 420.*

### Sacraments.

Three Iustices of Peace may take accusation by oath of two witnesses against such as deprave the Sacrament of the Supper, and examine what witnesses were by, and binde them all to give evidence at the day of tryall; and they being found guilty shall be imprisoned and fined. 1. *Ed. 6. 1. Lam. 366, 416. Quere.*

Three Iust. of Peace, one being of the Quorum,  
may

may award against one indicted upon the statute of 1. E. 6. 1. for depraving the Sacrament, a *Capias*, *Exigent*, and *Capias ut legal* into any shire. 1. Ed. 6. 1.

### Saltpeter-men.

Saltpeter-men cannot dig in the mansion house of any subject without his assent, in regard of the danger that may happen thereby in the night time to the owner, his family and goods by thieves and other malefactors. *Dal. 205. Co. 11. 82.*

### Schoolmaster.

To keep or maintain a Schoolmaster which resorteth not to Church, or is not allowed by the Bishop or Ordinary of the Diocese, the maintainer forfeits ten pounds for each moneth, and the Schoolmaster to be imprisoned for a year without baile, and disabled. *23. El. 1. Lam. 419.*

Any keeping a Schoolmaster out of the University, except in publicke Grammar-schoole, and except in such Noblemen and Gentlemens houses as are not Recusants, and licensed by the Archbishop or Guardian of the Diocese, both keeper and schoolmaster forfeits 40 shill. a day. *3. Jac. 4.*

### Seditious sectaries.

One Iustice of Peace may within three moneths after the conviction of any seditious sectary or Popish Recusant described in the statute of 35. El. 1. require the submission of him to conformity, and in default of such submission, may require him to abjure the Realme; and if he refuse, or after returne without license, it is felony. *35. El. 1. & 2. Lam. 204.*

Sermon, *vide* Preaching.

Servants, *vide* Labourers and Apprentices.

Serving-men, *vide* Testimoniall.

Sessions

## Sessions of the Peace.

The Sessions of the Peace is an assembly of any two or more Iustices of Peace, one being of the *Quorum*, at a certaine day and place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to heare and determine according to their power of causes within the Commission and Statute referred to their charge. *Lam.* 378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing. *Lam.* 380, 381.

Summons of the Sessions is usually by precept written to the Sheriffe, and by him to bee returned at the Sessions. *Lam.* 381, 385.

Precept for summoning the Sessions may be made by any two Iustices of Peace, one being of the *Quor.* but not the *Custos Rotularum* alone; and summons cannot be discharged by *superseas* of all the other Iustices, but by *superseas* out of the Chancery. *L.* 332, 383.

Sessions held by one Iustice of Peace is not good although it were summoned by two, and stiled by their names; but by two sufficient Iustices it is good, though it be stiled by the name of three. *Lam.* 383.

Quarter Sessions are to be held foure times in the year, (*viz.*) the first weeke after S. Michael, the Epiphany, the clause of Easter, after the translation of S. Thomas the Maytyr, which is 2 *Iuly*. 2. *Hen.* 5. 4. *Lam.* 597.

The Easter Sessions by 33. *Hen.* 8. *cap.* 10. are to be holden as arbitable, and therefore though by summons they be to be kept in one place, yet they may be kept in another; but then there can be no amercia-ment for default of appearance. *Lam.* 383, 384.

Two Sessions at one time for one County lawfully

ly summoned at two places, both are good, and appearance at one shall excuse default of appearance at the other, and presentments taken before either of them shall be good. 384.

At a generall Sessions all matters enquirable by Iustices of Peace, either by their Commission, or by statute, ought to be given in charge, otherwise a speciall Sessions, *Lam. 623.* and may be held three dayes. 606. 12.R.2.c.10.

Two sorts of men owe their ordinary attendance at the Qu. Sessions, (*viz.*) officers and ministers of the Court, and Iurours of the County. *Lam. 386.*

Officers are the *Custos Rotulorum*, where he ought to attend by himselfe or his deputy. 387.

The Clerke of the Peace. 393.

Iurors for enquiry and tryall. 396.

The Iustices of Peace, if need require, may keepe a speciall Sessions by vertue of their Commission, or by the statute. 2. Hen. 5. 4. *Lam. 623.*

Summons of a speciall Sessions is for the most part for some speciall enquiry, and not to the generall service of the commission. *Lam. 623.*

All matters within the commission or statute may at a speciall Sessions of the Peace be given in charge, yet they are at liberty to give in charge either all or any of them. *Lam. 623, 624.*

If two Iustices of the Peace, one being of the Quorum, make a precept to the Sheriffe for the holding a Sessions at such a place and day, and to returne a jury before them, neither Iustice can by their *Superfedeas* to the Sheriffe inhibit him, *Cro. 122.b.* but the King by his writ of *Superfedeas* may discharge it. *Ibid.*

A man is bound to appeare before a Iustice of Peace within fourty dayes after, in the meane time a generall Sessions is kept, he ought to appeare before the Iustice at the Sessions. *Cro. 123. a. m. 8.*

## Sewers. Sheep. Sheriffe. 223

A Iustice commands one on paine of 10 pound by his precept to appeare at the next Sessions, and hee doeth not, no *Sare facias* shall goe against him more than upon a *Sub poena*, but it seemeth it may bee attached upon a contempt.

### Sewers.

Commission of sewers being expired, sixe Iustices of Peace, two being of the Quorum, may for one yeare after execute the lawes of Commissioners of sewers, unlesse a new be published. 13.*El.c.9.*

### Sheepe.

To transport sheepe beyond the seas without license, or to procure the same, is felony the second offence. 8.*Eliz.3.Lam.227,425.*

Any bringing, lending, or receiving into any botome any sheepe alive out of the Kings dominions, or procuring the same, loseth his goods, is to be imprisoned for a yeare, and then in open market to lose his left hand. 8.*Eliz.3.Lam.456,457.*

Any keeping at one time above 2000 sheepe of all sorts against the purport of the statute, loseth 4 shill. 4 pence for every sheepe above 2000. 28.*Hen.8.b.13.*

### Sheriffe.

The *Custos Rotulorum*, or eldest of the Quorum in his absence, is to appoint at Michaelmasse Sessions, two Iustices of Peace, whereof one of the Quorum, to have the oversight and controulment of the Sheriffe, Undersheriffe, their officers and deputies, and of their books and amerciaments in their county Courts: and either of these two Iustices, or one Iustice of the Peace, *Lam.201*, may examine the Sheriffe or Undersheriffe and plainiffe concerning the taking and entering plaints in their Courts and bookes against the statute

Statute II. H. 7. 15. *Dal. cap. 51. 136. Lam. 201, 295, 600.*

The particulars are *Dal. 133.* but it ought to be, *137. Lam. 131.*

1 If any plaints be entred in their bookes in any mans name, the plaintiffe or sufficient Attourney not being in Court.

2 If the plaintiffe finde not pledge to pursue his plaint, (*viz.*) such as are knowne in that countrey.

3 If they enter more plaints than one for one trespassse or contract.

4 If they enter more plaints than the plaintiffe supposeth he hath cause of action for against the defendant.

If upon examination the Iustices finde any default, it shall stand for conviction without further enquiry or examination, and they forfeit 40 shill. to the King, and to the informer for every default, and the Iustices must certifie the examination to the exchequer within a quarter of a yere, on paine of 40 shillings. *Dal. ibid.*

The like for bailiffes of hundreds in not warning the defendants to appeare. *Dal. ibid.*

Sheriffe shall make no estreats to levie their shire-amerçiements untill the two Iustices have had a view and oversight of the bookes, and the said estreats shall be indented betwixt the said Iustices and Sheriffe, or Under-sheriffe under their scales. *Dal. ibid.*

The said two Iustices or one of them, may examine the defaults of collectors of shire-amerçiements, whose finding of default is a sufficient conviction and forfeiture of forty shillings, the examination to be certified into the Exchequer. *Dal. ibid.*

The said Iustices, upon information of the party grieved, may make like processe as in action of trespassse against the Sheriffe, &c. See *Dal. c. 131.* to appeare



peare then to answer the said information or suggestion, *Dalt.* 134. rather 138.

Sheriffe ought to be at the Sessions to returne his precept, and keepe the prisoners. *Lam.* 391.

*In these cases following the Sheriffe. &c. did forfeit 40 pounds, and treble damages to the partie grieved, 23. Hen. 6. 10. Lam. 430, 431.*

1 Sheriffe that letteth his Bailiwicks or any of his hundreds.

2 Or returneth in any pannels any bailiffes, officers, servants, or servants servants.

3 Or refuseth to baile those that areailable, offering sufficient surety.

4 Or taketh any obligation by colour of his office, but onely to himselfe, and upon the name of his office, and upon condition onely to appeare according to the writ or warrant.

5 Or having taken for an arrest above 20 pence.

6 Or above 4 pence for any obligation; warrant, or precept.

7 Or above foure pence for the copy of a pannell.

8 Bailiffe for taking above four pence for making an arrest.

9 Gaoler taking above foure pence of any committed to his ward upon arrest or attachment.

10 Sheriffe or his ministers that shall levie any of the Kings debts; without shewing the partie the estreats under the Exchequer seale, shall be fined and pay trebble damages to the party. 42. *El.* 39. 7. *H.* 43. *Lam.* 432.

11 Sheriffe or other his minister arresting, imprisoning, ransoming of, or levying any ameraciements by reason of any Indictments or presentments made in the Sheriffes time, without proesse first obtained from the Iustice of Peace, or that hath not brought

brought in such enditements and presentments to the Iustices of the Peace at the next Sessions, loseth 10 pound. 1. *El.* 4. *Lam.* 431.

Sheriffe or any other who maketh returne of any writ, that returneth any Iurour, without true addition of the place of his abode, or within a yeare next before, or without some addition by which the Iurour might be well knowne, loseth 5 marks to the King, and 5 markes to the party. 27. *El.* 7. *Lam.* 438.

Sheriffe or goaler denying to receive felons by the delivery of any Constable or Township, or having taken any thing for receiving such. 4. *E.* 3. 10. *La.* 434.

Sheriffe, bailiffe, or other officer or person, refusing to pay over to the Churchwardens, &c. the moity of the forfeitures by the statute of 4. *Iac.* against uttering of beere or ale to ale-house-keepers unlicensed, forfeiteth double value. 4. *Jac.* 4. *Lam.* 434.

Iustice of Peace being chosen Sheriffe, his authority of I. is suspended during his Sheriffewicke; but after another is chosen and sworne, his authority as a Iustice of Peace is as it was before without any new oath, except he be left out of the commission. *Dal.* 11. & 12. *edit.* 1635.

### Shoes.

Making shoes, pantofles, &c. contrary to the rules prescribed in the statute, loseth 3 shillings 4 pence for every paire of shoes, &c. and the value of them. 1. *Iac.* 22. *Lam.* 465.

Shewing of boots, &c. on the Sunday, with intent to sell them, loseth 3 shillings 4 pence and the value of them. 1. *Iac.* 22. *Lam.* 466.

Shooting, *vide* Archery, Crosbowes, Partridges.

Silke, *vide* Apparell.

Sope, *vide* Vessels.

Souldiers,

## Souldiers.

Souldier serving the King by sea or land, doth willingly give, purloine, or put away any horse or harness wherewith he was set forth, or taken from other souldiers was appointed to him, upon complaint thereof to a Justice of Peace, he shall be committed without baile, till he have made satisfaction, unlesse he have beene formerly punished by the Generall or other, or shew forth in writing under seale the lawfull losse thereof. 2.& 3.E.6. *Lam.* 194.

Souldiers passing out of the Realme to serve any forraine Prince, not having before their passage taken the oath of allegiance before the officer appointed thereunto, is felony. 3.*Jac.* 4. *Dalt.* 280.

Souldier being a gentleman, or of a higher degree, or Captaine, or other officer in campe, passing to serve any forraine Prince, &c. before they bee bound to the King with two sureties before the officer appointed, not to be reconciled to the Pope, &c. or to consent to any conspiracy against the King, but to disclose all conspiracies upon knowledge thereof, &c. it is felony. *Ibid.*

Souldier entred upon a record, and having taken presse-money, and that departeth without license, it is felony, 7.*H.* 7. 1. 3.*H.* 8. 5. *Dal.* 280. or if they depart without license after they have served in the Kings warres, 2. *Ed.* 6. 2. *Dalt. ibid.* So of mariners and gunners that have taken presse-money to serve the King on the sea, and come not unto, or depart from the Captain without license, it is felony. 5.*El.* 5. *Da.* 280.

*In these cases following, by the statute of 39.Eliz. 17. souldiers and mariners doe become felons. Dal.* 247.

Q<sub>2</sub>

Such

Such which set themselves not to some lawfull course of life, but wander up and downe idly, not having a lawfull testimoniall (if they come from beyond sea) from some Iustice of Peace neare the place of their landing, expressing the place and time of their landing, the place to which they are to passe, and a time limited for their passage; or having such a testimoniall, if they shall exceed the time limited.

To forge or counterfeit such testimoniall, or to have a forged testimoniall, knowing that it is forged.

Or being retained in service after his arraignment, &c. if he depart within the yeare without his Majesties license.

Poore souldier, or mariner, or sea-faring man suffering shipwracke, may have a license from a Iustice of Peace next to his landing, to passe to the place of his repaire, and may aske and receive necessary reliefe in his direct passage within the time limited to him. 39. *Eliz.* 4. 39. *Eliz.* 17. *Dal.* 126. *Lam.* 303. 21. *Iac.* c. 28.

Every parish is to be taxed to the reliefe of disabled souldiers, by the greater part of the Iustices at their Quarter Sessions next after Easter, so as no parish be above ten pence, nor under two pence weekly to be paid, so as the totall summe in any County where there shall be above 50 parishes, doe not exceed six pence every parish. 43. *El.* 3.

The said taxation to be assessed within themselves, and in default thereof by the Churchwardens and petty Constables or the greater part of them, in default thereof by the Iustices or Iustice of Peace dwelling in the same parish, or if none be there, in the parish next adjoyning. 43. *El.* 3.

In default of payment of the same assesse, the Churchwardens and petty Constables may levie it by distresse and sale, &c. and in their default the  
aforesaid

aforesaid Iustices or Iustice of Peace. 43. El. 3.

The Churchwardens and petty Constables are to pay over their collections to the high Constable 10 dayes before every Quarter Sessions, and the high Constables at every Quarter Sessions are to pay it over to the Treasurer. *Ibid.*

If any of them make default, then the Churchwardens or petty Constables forfeit 20 shillings, and every high Constable 40 shillings to be levied by the Treasurer by distresse and sale for argumentation of stocke. 43. El. 3.

Treasurer for maimed Souldiers must be 10 pound in lands or 50 in goods in the subsidie, and continue but for a yeare, and within ten dayes after Easter Sessions following to give account to his successor, in default thereof or for other misdemeanour in his office, to be fined five pound or above by the part of the Iustices of Peace. 43. El. 3.

Souldier or Mariner sicke or maimed by service in his Majesties pay, upon lawfull certificate thereof by the generall muster-master or receiver of the muster-rolls, Treasurer, or contrroller of the navy under his hand, is to come to the Treasurer of the county where he was prest, or if he were not prest, then to the Treasurer of the county where he was borne or last dwelt 3 yeares, if he be able to travell so farre; or otherwise to the Treasurer of the County where he landed, by him to be relieved according to his discretion till the next Qu. Sessions, at which time the more part of the Iustices may according to their discretions grant him a pension during his life, being not duely revoked or altered. 43. El. 3.

Treasurers are to make payment quarterly of such pensions as shall be granted by the most of the Iustices at the Qu. Sessions under their hands, and by them to be fined if they refuse to pay them. 43. El. 3.

Pensions of souldiers and mariners, not having borne offices, are not to be above 10 pound; under the degree of a Lieutenant fifteene pound; a Lieutenant 20 pound. 43.*Eliz.* 3. Pensions are revocable or alterable at the discretion of the Iustices in the Qu. Sessions. 43.*Eliz.* 3.

Treasurer where any maymed souldier or mariner shall arrive upon certificate without allowance, may give a testimoniall of his owne allowance, and convenient reliefe to carry him to the next County, leading him to the place where the generall muster-master shall be: and so may the treasurer of each County, leading him thither and from thence to the County where he is to have his pension. 43.*El.* 3.

Treasurer is to enter into a booke money received and disbursed, with the parties names and certificate to whom it was paid. 43.*Eliz.* 3.

Treasurer not allowing a certificate in the act of 43.*El.* 3. expressed, must endorse the cause thereof on the certificate. 43.*El.* 3.

Souldier or mariner counterfeiteth a certificate, or having a pension beggeth, hee shall lose his pension and be adjudged a rogue. 43.*El.* 3.

Souldier or mariner that cannot be relieved in the County where he was pressed, by reason that whole taxation is employed, shall be relieved where hee was born or dwelt the last 3 years at his election. 43.*El.* 3.

Overplus of the stock for maymed souldiers is to be employed by the greater part of Iustices at the Qu. Sessions, to such charitable uses as are set down in the statute for poore, except it be by them reserved for future pensions. 43.*El.* 3.

### Starre-chamber.

The experience of Star-chamber is the best guide and direction for a Iustice of Peace. *Lam.* 175.

Stollen

## Stollen goods.

After attainder upon evidence by the owner, the stollen goods are to be restored to the owner by writ of restitution awarded by the Iustices before whom the attainder was. 21.H.8. 11. *Lam.* 586. *Dal.* 298. *Cro.* 191.2. *Vide* Restitution of stollen goods, *antca* 201.

## Stewards of Courts.

Stewards of the Sheriffes turne, Leet, or Pypowers, cannot grant surety of the Peace unlesse it bee by prescription, but every of them may commit him to ward that shall make an affray in their presence whilest they be in execution of their office, which the steward in a court Baron cannot doe. *Lam.* 14. *Dal.* 2. 10.H.6.7. *Br. Leet* 36.

## Stocks of the shire.

The parishioners, and in their default the Churchwardens and Constables are to asseſſe the taxe imposed upon the parish by the Iustices at Easter Sessions, towards the reliefe of the prisoners in the Kings Bench, Marthalsey, Hospitals, and other losses by fire, &c. In default of them, any Iustice of P.dwelling in that parish, or (if none dwell there) the next Iustice may asseſſe the same; and the same Iustice of Peace or any other Iustice of Peace in that limit, in default of the Churchwardens and Constables, may levie the same by distresse and sale of the offenders goods, and in default of distresse may commit such persons without baile till they pay the same. 43. *El.* 2. *Da.* 135.

In all taxations observe these rules, *Dal. ibid.*

1 The most reasonable taxation of land is by

the yearly value, not the quantity.

2 He that occupieth lands in his owne hands in severall parishes, shall be charged in every parish proportionably for his land there.

3 The Farmer shall be rated for the land, and not the lessor.

4 A man is not to be rated for his farme-rents, for that the occupyer of the lands is chargeable for the same.

5 By goods in most cases a man may be rated, as well as by lands, but not both by goods and lands.

6 A man shall be charged for goods onely in that town where the goods be at the time of assessment : See 9. H. 4. c. 7. the Constable and major part of the parishioners, upon warning given in the Church, may make such taxations by law. *Dal.* 137. Co. 5, 67. Br. *Quin.* 4. et 6.

The like may be done by the Churchwardens and the greater part of the parishioners for Church-charges. *Dalt.* *ibid.*

If the greater part will not meet, the officers and such as will meet may tax. *Dal.* *ibid.*

Where a man is charged by goods, they must be *bona notabilia*. *Dalt.* 136. *Vide* Taxations.

### Subsidie.

Upon prooffe before two Iustices of Peace that a subsidy man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Iustices. *Lam.* 336. See 7. & 21. *Iac.* and divers former acts of subsidies. *Dal.* 137.

Suggestion, *vide* Information.

Summons of the Sessions, *vide* Sessions.

Sunday.



Sunday.

All persons shall resort to their parish Church or Chappel accustomed, or upon reasonable let to some usuall place where Common prayer shall be used upon every Sunday and other day ordained and used to be kept holy day, and then and there to be orderly and soberly during the time of Common-prayer, preaching, or other service of God, or lose 12 pence for every offence to be levied by the Churchwardens there, to the use of the poore by way of distresse, 1. *El. 2. Dal. 106.* though he be Popish Recusant convict or not convict. *Ibid.*

If any subject doe not resort & repaire every Sunday to some Church or Chappell, or some usuall place appointed for Common prayer, and there heare divine Service according to the statute, 1. *El. 2.* it shall be lawfull for a Iustice of Peace of that limit, upon proof by confession of the party, or oath of witnessse, to call the party before him; and if he or they make not a sufficient excuse, to the satisfaction of the said Iustice, then to give warrant to the Churchwardens of the said parish under his hand and seale, to levie 12 pence by distresse to the use of the poore for every default; and for want of distresse, to commit the offender to prison, every offender to be called in questio within one moneth after the offence. 3. *Iac. 4. La. 418.*

None punished according to the branch of the statute of 3. *Iac. 4.* shall be punished by 1. *Eliz. 2* for the same offence. 3. *Iac. 4.*

There shall bee no meeting, assemblies or course of people for any sports or pastime out of their owne parishes on the Lords day; nor Bear-baiting, Bul-baiting, Interludes, common-playes, or other unlawfull exercises within their own parishes, upon forfeiture of 3 shillings 4 pence to the use of the

the poore, upon view of one Iustice of Peace confession of the party offending, or oath of one witnessse, to be levied by warrant of the said Iustice under his hand and seale to the Constable and Churchwardens; in default of distresse, the offender to sit in the stocks three howres. The offender to be questioned within one moneth. *1.Car.1.Dal.63.*

Carriers, waggoners, waynmen, drovers, shall not travell with horse, wagons, carts, or cattell upon Sunday, upon paine of 20 shillings for every offence. Neither shall any Butcher kill or sell any victuall upon Sunday, on paine of 6 shillings 8 pence, upon view of one Iustice of Peace, confession of the party, or oath of two witnessses, the penalty to be levied by the Constable or Churchwardens to the use of the poore by warrant of any Iustice of Peace by distresse, or by any that will sue for the same at the Qu. Sessions in the same County within sixe moneths, his reward not to be above the third part. *1.Car.1.Dal.134.*

Shewing of boots on the Sunday, with intent to sell them, loseth 3 shillings 4 pence, and the value of the boots. *1.Iac. 22.Lam.466.*

### Supersedeas.

*Supersedeas* is sufficient, though it neither name the sureties, nor containe the summe wherein they are bound; but it is better if it doe both. *Lam.96.Dal.168.*

*Supersedeas* delivered to the officer, if he urge new sureties, the party may refuse; and if he be committed, he may have his action. *Lam.99.Dal.168.*

*Supersedeas* out of the Chancery will discharge surety of the P. in the Kings Bench, and either of them a precept for the peace awarded by a I. of P. and an attachment lyeth against him if he surcease not, and he may be imprisoned and fined for it. *Lam.99.Dal.168.*

*Super-*

*Superfedeas* received by a Iustice of Peace out of an higher Court, he should forbear to make any warrant, or if one be made, to send out his *Superfedeas* to the Sheriffe or other officer to desist to put it in execution. *Lam. 99. 168.*

*Superfedeas* out of the Chancery is to be certified at the next Sessions, together with the recognisance for the Peace; if the *Superfedeas* doe testifie that hee hath found surety in the Chancery onely unto a certaine day, which day is after those Sessions if the *Superfedeas* come to his hands after his recognisance taken. *Lam. 199. Dal. 169.*

*Superfedeas* for the good abearing, *quere* if it may be granted by a Iustice of Peace, *Lam. 123. Dalt. affirmeth it, 193. Cro. 237. a.*

A *Superfedeas* made by a Iustice of Peace, and returned under his seale, is a sufficient record to prove a recognisance taken for the Peace, and warrant to call the party bound, and if he make default, to record the same. *Lam. 97.*

If a Iustice of P. will by a *Superfedeas* discharge a Precept for the Peace awarded by another by vertue of his office, and not by *Supplicavit*, the recognisance would be taken according to the forme of the Precept. *Lam. 96. Dal. 168.*

*Certiorari* to remove a record is in it selfe a *Superfedeas* to the Iustice, yet the party may have a *Superfedeas* to the Sheriffe that he arrest him not upon the Iustices record. *Lam. 515.*

Whether the Iust. *ex officio* after a *Certiorari* ought to award their *Superfedeas*, to stay proceeding upon the record, *quere Lam. Ibid.*

An exigent awarded against one endited of a trespassse before the Iustices of Peace, may bee stayed by *Superfedeas* out of the Chancery, upon surety found there to appeare the day in the Writ, though hee

hee be taken upon it. *Lam. 526, 527.*

So by *Superfedeas* granted by two Iustices of Peace, one being of the Quorum, testifying that hee hath found sureties, *de sine assidendo. Ibid.*

By one Iustice of Peace, *Dal. 168. Cro. 334.* If a *Superfedeas* be directed to the Iustice of Peace and Sheriffe, the Iustice to whose hands it shall bee delivered may keepe it, and deliver the libell to the party. *Dalt. 169.*

*Superfedeas* granted for the peace or good behaviour out of the Chancery or Kings Bench, is void, unless it be upon motion in open Court, and upon sureties of five pounds in lands, or 10 pounds in goods in subsidie.

Whether the party bound, sending the *Superfedeas* to the Sessions, bee discharged of his appearance there, *quere Dal. 169. La. 113. Dyer 25. a. Liber intr. 453.* the presidents are, that the party appeared and prayed allowance, &c.

### Supplicavit.

He onely to whom the Writ of *Supplicavit* is delivered, must execute it. *Dal. 157. 183.*

The Iustice that receiveth the Writ, may make the Warrant to the Constable or other partie, and indifferent; and if he refuse to finde sureties, to carry him to prison. *Dalt. 183.*

The party attached can be bound only before him that sent out the Warrant. *Dalt. 183.*

The Iustice is to execute the *Supplicavit* as it directed. *Dal. 170.*

If the summes be left to discretion, it is safe to take good summes. *Dalt. ibid.*

After sureties taken the Iustice may make him a *Superfedeas* *Dalt. 182, 183.*

The Iustice needs not returne the *Supplicavit*, nor make

make certificate, untill a *certiorari* doe come to him.  
*Lam. 109. Dal. 186.*

Supremacy.

To refuse the oath of Supremacy, the first offence is *Premunire*, the second Treason. *5. El. 1.*

Surety of the Peace.

Surety of the Peace is the acknowledgement of a recognisance to the King (taken by a competent Iudge of record) for the keeping of the Peace.  
*Dal. 157.*

Every Iustice of Peace may take and command the Peace either as a Iudge or a Minister. *Dal. ibid.*

Iustice of Peace may command surety of the Peace, either of his owne discretion, or at the prayer of another.

*In what cases a Iustice of Peace may command surety of the Peace by his owne discretion, Dal. 158.*

1 One that maketh an affray upon the Iustice himselfe, or an assault.

2 Such as in his presence make an affray upon another, or offer to strike another.

3 Such as in his hearing shall threaten to kill, beate, or hurt another, or to burne his house.

4 Such as in his presence contend onely in hot words.

5 Such as in his presence goe or ride armed offensively, or with unusuall number of servants or attendants. And servants and labourers that beare any we apons contrary to the statute of 12. Ric. 2.

6 Any person by him suspected to bee inclined to breake the Peace.

7 If the Constable bring one before him that shall threaten

threaten to kill, maim, or beate another.

8 If the Constable bring one who in his presence attempted to breake the Peace by drawne weapon, striking or assaulting another.

9 Whom the Constable findeth fighting or quarrelling in a house, he may breake open the doore, and bring them before a Iustice of Peace to be bound.

10 Hee may make his warrant for such as have made an affray, and binde them to the Peace.

11 If one have received a wound, hee may binde the one and the other till the wound be cured, and the malice over.

12 Such as goe or ride armed offensively to faires or markets, or weare or carry dags or pistols charged.

13 Common Barretours. *Dal.* 159.

14 Rioters.

15 Him that standeth bound to keepe the Peace, and hath forfeited his recognisance by breach of the Peace; and will not be bound againe, till he be convicted, and the forfeiture levied. *Dal.* 159. Yet *Cro.* 141. saith that he may be bound anew if he be onely convict for breaking the Peace.

16 Him that standeth bound, if his sureties be insufficient.

Iustice of Peace is to send to prison him that refuseth to give sureties, until he finde sureties. *Dal.* 159. *Lam.* 77. & 92.

17 Iustice of Peace may cause one to be arrested to finde surety of the Peace against another, and grant a warrant for it: for hee might have bound him of his owne authority. *Dal.* 159.

At the request of another he may command surety of the Peace, but must first take an oath of the party that demandeth the Peace, that he standeth in feare of his life, or of some bodily hurt, or to have his house burnt. *Dal.* 159. *Lam.* 183.

*Causes to procure suretie of the Peace.*

1 He that is threatned to be hurt in body, as to be beaten, wounded, maimed, or killed. *Dal.* 160.

2 He that feareth another will beat, wound, maim or kill him. *Dal. ibid.*

3 He that feareth another will burne his house. *Dal. ibid.*

4 He that feareth that *A* will procure another to hurt him in his bodie, or burne his house. *Dal.* 160.

5 If a man lie in waite to beat, kill, or hurt another. *Dal. ibid.*

*Quere*, if he threaten to burne his goods.

*In what cases a man shall not have the Peace granted.*

1 To threaten and to imprison him. *Da.* 160. *Lam.* 82. *Cro.* 135. *Quere tamen.* 17. *E.* 4. 4. *Br.* *Peace.* 22.

2 Where one is in feare that a man will hurt his servant, cattell, or other goods. *Dal.* 160. *Crom.* 138. 2. *Dal.* seemeth to be of the other opinion 160.

3 Because he is at variance with his neighbour. *Dal.* 160. *F. N. Br.* 80.

4 Where there is no feare of present or future danger. *Dal.* 160. *Lam.* 83.

5 For a battery past: yet a Iustice, if he see cause may binde over the assayers. *Da.* 161. *La.* 83.

Iustice of Peace may deny to grant surety of the Peace, if it be upon meere vexation; yet if the party will take his oath, it is not safe to deny it. *Dal.* 161.

*Against whom surety of the Peace may bee granted.*

Against a Knight, or any person under the degree of a Baron. *Dal.* 162.

Against any Ecclesiasticall person not doing divine

vine Service in the Church or Church-yard, or other place dedicated to God. *Dal. 162. 36. H. 6. 23. 30. E. 3. c. 5*

One Iustice of Peace may grant the surety of the Peace against his fellow Iustice. *Dal. 163. Lam. 80.*

One Iustice of Peace may demand the Peace against another man.

The wife may demand the peace against her husband, if he threaten to kill her, or outragiously beate her, or have notorious cause to feare it; and the husband may crave the Peace against his wife. *Dal. 163.*

The Peace may be granted to a feme-covert, or an infant under the age of 14 yeares, if he have discretion to crave the Peace; but they must bee bound by sureties. *Dal. 163.*

A lunatick may crave the Peace, and have it granted him. *Dal. 163.*

It may be granted against one attainted either of treason or of felony, *Dal. 164.* or convict of heresie. *Dal. 164.*

It may be had against an excommunicate person, *Dal. 164.* and an abjured person. *Ibid.*

It may be had against one attainted in *Fremunire*, and against an alien either made denizon, or living in England.

It may be had against one dumbe and blind, so against an impotent person.

*Against whom the Peace cannot be granted.*

1 It cannot be granted against any Nobleman, or Noblewoman. *Dal. 161.*

2 Against one *non sane memorie.*

3 Against one born dumb & deaf, or made blinde and deaf accidentally; he may have understanding, & the P. may be granted to him or against him. *Da. 164.*

*How the surety of the Peace is to be commanded and executed.*



A Iustice of Peace may command the Peace by word, and by writing.

*By word.*

The partie being present in the presence of the Iustice of Peace, threatneth, or maketh an assault or affray upon another, or doth any other act tending to the breach of the Peace. *Dal. 165. Cro. 138. Lam. 84, 85.*

One demandeth the surety of the Peace, being present, and taketh his oath he is affrayed, &c. the Iustice may command the other to finde surety. *Dal. 165. Cro. 138. b. Lam. ibid.*

The Iustice in such cases may command the Constable or other knowne officer, or his owne servant being present, to arrest such party to finde surety of the Peace, and may commit to the Goale such party refusing to finde surety. *Dal. Cro. La. ibid. 14. H. 7, 8, 9.*

*By writing.*

The Iustice by precept or warrant in writing under his seale directed to some knowne Officer, or other indifferent person, containing the cause and at whose suit, to the end the parties may provide the sureties and take them with them. *Dal. 166. Lam. 89.*

The Iustice may make his warrant to bring the party before him, but the usuall manner is to bring the party before the same Iustice or some of the Iustices of the County. *Dal. 166. See Dal. c. 121.*

Who may serve the Warrant, *vide* Warrant.

The constable is first to acquaint the party with the matter in the Warrant; and if hee refuse to goe before the Iustice to finde sureties, he may arrest him and carry him to the Goale, without carrying him to the Iustice. *Dal. 166. Lam. 92.*

If the party yeeld to finde surety, the officer is not bound to goe up and downe with him, but may keep him untill he can procure sureties to come to him; if

afterward he make resistance or offer to goe away, hee may by his warrant carry him to the Goale and set him in the stocks till he can get aid to convey him to the Goale. *Dal. 166.*

The arrest is not justifiable except the Officer doe carry him to the Goale that refuseth to finde sureties. *Cro. 171. b. Dal. 167.*

The party may goe before any other Iustice (if the warrant proceed *ex officio*) to offer the sureties, but cannot force the Officers to travell out of the division where they dwell. Nay it is at the election of the officer to carry the party to any other Iustice, rather than to give the election to the delinquent. *Dal. 167.*

The party comming before the Iustice is to offer his sureties, or else the Iustice is to commit him, for the Iustice needeth not to command them. *Dal. 167.*

If the party refuse before the Iustice of Peace to finde sureties, the Officer by the first Warrant may commit him. *Dal. 167.*

The Officer is fineable if he arrest the party, and doe not carry him before a Iustice of Peace, if hee bee willing to finde sureties; secondly if upon refusall they arrest him, and do not carry him to the Goal. *Dal. 167.*

The party being imprisoned, the Iustice of Peace may make him his liberate; first, if the complainant die; secondly, if hee doe enter surety of the Peace. *Dal. 167.*

If the imprisoned have a suit depending in the common pleas, by some opinions, the imprisoned may be discharged by a writ of privilege. *Quare tamen, Dal. 167. Cro. 38. a. Lam. 94. 4. E. 4. 18. 2. H. 7. 2.*

A sworne & knowne Officer needeth not to shew his Warrant, but the servant of the Iustice must shew it if it be required. *Dal. 332. Lam. 89. 8. E. 4. 14.*

If Husband and wife be bound to appeare, and in the meane time to keepe the Peace, and the husband onely

onely appeareth, the recognisance is not forfeited.  
*Dal. 157. quare Cro. 144. b. 8. E. 2. for. 17.*

Suspicion and suspects of felony.

A suspect of felony ought not to bee arrested by a warrant from a Iustice of Peace, unlesse he be endited before; for if the bailiffe which serverth the warrant doth suspect him, he may doe it of himselfe without a warrant; and without suspicion the Iustices warrant is no warrant. *Lam. 188. Dal. 336, 337. Crim. 547. b. 148. b. 197. a. Quare 14. H. 8. 18.*

Suspicion onely without felony committed is no cause to arrest another. *Dal. 337. Cro. 154. a.*

A felony being committed, every man may arrest suspicious persons that bee of evill fame, &c. and if such person make resistance, the other may justifie to beate him. *Dal. 337.*

The Constable or other person that arresteth one for felony or suspicion, must himselfe suspect. *Ca. 337. 5. H. 7. 4.*

Swannes.

Taking away from his owne or another mans ground Swannes of another mans, upon conviction and examination of witnesses is imprisonment for a yeare and a day, and losse of ten pound. *Lam. 274, 275.*

To steale Swannes unmarked, if they be domiti, and kept in a mans manour or private rivers, is felony. *Dal. 263.*

Swearing.

He that sweareth or curseth, being convicted by hearing of any Iustice of the Peace, or by oath of two witnesses, or confession of the party before a Iustice of Peace, loseth 12 pence to the poore to bee levied by distresse, the offence being proved within 20 dayes, or

for default of a distresse to be set in the stocks three houres. 21. *Iac.* 20. & 3. *Car.* c. 4.

The offender being under 12 yeares of age, and not forthwith paying his 12 pence, by warrant of a Iust. of Peace, or head-officer, is to be whipped by the Constable, or by the parent or master in his presence. *Ibid.*

### Taxations, *vide* Stocke of the Shire.

**T**AXATIONS made for a Common-wealth, as making or mending of bridges, high-ways, cau-seys, fer-bankes, &c. shall be upon all persons though they assent not. *Dal.* 137. *edit* 1626. *Br. Customs* 6.

Talebearers, *vide* News.

Tanners, *vide* Leather.

### Tavern-keeper.

Assignment of such as shall keepe a Taverne to utter wine, is to be made at the generall Sessions, unlessse it be otherwise by especiall grant. 7. *E.* 6. 5. *Lam.* 614.

### Testimoniall.

Testimoniall under the hand of one Iustice of Peace sealed, is sufficient to passe in hay-time and harvest time from one County to another. *Lam.* 190.

In all testimonials and passports, some assured marks of the party, by which he may infallibly be distinguished and knowne from others, are fit to be specified. *Lam.* 206.

Testimoniall for a serving-man turned from his masters service, or whose master is dead, ought to be made by two Iustices of Peace. 27. *Eliz.* 11. *Lam.* 331. *Dal.* 127.

Theft.

## Theft.

Theft is a fraudulent and felonious taking of another mans personall goods, in the absence of the owner, and without his knowledge. *Dal.* 258. *Lam.* 272.

Theft is either Grand-larcenie, or Petty-larceny.

Grand-larceny is when goods stolen are above 12 pence, and it is felony of death, except the party bee saved by his booke. *Dal. ibid.*

Yet if the goods be of more value, and the Jury find it did not exceed 12 pence, it is not grand-larceny. *Dal. ibid.*

Petty-larceny is if the goods doe not exceed twelve pence, and is not felony of death, but imprisonment for some time, or whipping, or some other punishment by the discretion of the Iustice before whom the party is arraigned. *Dal. ibid. F. Corone* 178. & *Br.* 84. *D<sup>r</sup> & Stud.* 17.

For petty-larceny, the Iustice of Peace before whom the offender shall be brought, is not to punish him, but either to send him to the house of correction, or to baile him. 295.

Petty-larceny is forfeiture of goods and chattels.

Sixe pence, foure pence, and three pence, being taken by one at severall times from one and the same person, may be put together in one enditement. *Dal.* 259. *Lam.* 273. *F. Corone* 415. *Stam.* 24.

If two, or more, steale above 12 pence from one, it is felony of death in every one. *Dal. ibid. Lam.* 273. *F. Corone* 404.

## The manner.

To make an act larceny, there must bee first a taking, secondly, a carrying away. *Dal.* 259. *Lam.* 277.

Yet it may be felony though the offender came to it by the delivery of the owner. *Lam.* 278.

As,

A Taverner setteth plate before his guests to drink in,

in, and his guests carry it away, it is felony. *Dal.* 259.  
*Lam.* 278. *Cro.* 35. b.

A Carrier carryeth goods to him delivered to the place appointed, and there breaketh them up, and imbezelleth them; it is felony. *Da.* 260. *Cz.* 36. a. *La.* 279.

A Carrier taketh out parcels of the goods to him delivered; it is felony. *Dal.* 260. *Cro.* 36. a. 13. *E.* 4. 9. 10.

A Carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his owne use; it is felony. *Dal.* 260. *Lam.* 278.

*Where, after delivery, the imbezelling is no felony.*

A Carrier imbezelling the whole. *La.* 278. *Cz.* 36. a.

A stranger borroweth a horse and rideth away.

A clothier delivereth his wooll to his work-folk.

One delivereth his goods to another to keepe.

One delivereth money to A, to pay B.

*Felony in servants by force of statute, 5. El. 10.*

Servant of the age of 18 yeares (other than an apprentice) to whome any money, goods, or chattels, &c. by force of the statute, by his master or mistresse shall be delivered to keepe, of the value of 40 shillings or above; if he goe away with, or convert the same to his owne use, with intent to steale the same, or to defraud his master or mistresse, it is felony, if it be prosecuted within a yeare. *Dal.* 260. *Lam.* 279.

*Wherein are divers cases.*

A man receiveth of his master 20 pound in gold to keepe, which he changeth into silver, and runneth away with it, they are both of one nature, therefore felony. *Dal.* 261. *Cro.* 35. a. *Lam.* 280.

One servant delivereth to his fellow servant to the value of 40 shillings of his masters goods, and goeth away with it, or converteth it to his owne use; it is felony. *Dal.* *ibid.* *Cro.* 50. a. *Lam.* 280. A

A servant maketh a garment of his masters cloth, and goeth away therewith, it is felony. *Dal.* 261. *Cro.* 50.2.

*Quere* of barley converted into malt, or money melted into a piece of metall. *Dal.* 262.

An obligation is delivered unto a servant, and hee goeth away with the money received upon the same obligation; it is no felony within the statute of 5. *El.* 10. for the master delivereth not the money, *Dal.* 261. *Cro.* 35. b. 50.2. *Dyer* 5.

The servant carryeth his masters wares to market, selleth them, and goeth away with the money, or converteth it to his owne use; it is not felony within the statute of 5. *El.* 10. *Dal.* 262. *Cro.* 50.2. *Lam.* 280.

A receiver receiveth rents, and goeth away with them, it is no felony, for the statute is, where the master delivereth to keepe. *Dal.* 262. *Cro.* 50.2.

I deliver to my servant a horse to ride to market, or money to buy things or pay another, and he goeth away with it; it is no felony at the Common-law, for it was of his masters delivery. *Dal.* 262. *Cro.* 25. b. *Quere* if it be not felony by 5. *El.* 10.

A servant keepeth the key of his masters chamber doore, and taketh away above the value of 12 pence; it is felony at the Common-law, for they were not delivered him. *Dal.* 262. *Lam.* 279. 13. *E.* 4.9.

A guest taketh the sheets or other goods of the hoste feloniously into some other roome of the house, it is felony. *Dal.* 262. *Cro.* 35.2. *Lam.* 281. 27. *ass.* 39. *Caro.* *Br.* 107.

### Enquireable.

A man feloniously taketh an horse, and is apprehended before hee gets out of the close where hee went. *Dal.* 263. *Lam.* 281. 36.2.

### Not enquireable before Just. of P.

A servant taketh away or spoyleth his deceased masters

sters goods; in default of appearance in the Kings Bench after proclamation, it is felony. *Dal.* 262. *Cro.* 56.a. 33. *H.* 6.1.

*Of what things felony may be committed.*

Of moveable goods, as money, plate, apparell, household-stuffe, &c. so of corne, hay, trees, fruit, &c. being severed from the ground. *Dal.* 263.

Of domesticall things, as horses, mares, colts, oxen, kine, sheepe, lambes, swine, pigs, hennes, geese, ducks, turkeys, or any other domesticall beasts or birds of tame nature, though they runne or flie away out of the owners sight, the detainer is punishable by action. *Dal.* 263.

Of wilde nature, young pigeons out of another mans dove-house, yong hawks or herons breeding in parkes or severall grounds, fishes kept in a trunk or pond. *Dal.* 263. *Cro.* 36.b. *Stam.* 25. *Lam.* 274.

*Quere* of old doves in a dove-house.

So swannes marked, and at large, and tame deere marked and domesticall, if the taker know it to bee tame. *Dal.* 263. *Cro.* 36.b. *Lam.* 275.

By statute it is felony to hunt deere, or conies after some sort in park, forrest or warren, or to take a tame beast or other thing in a park, by manner of robbery. *Dal.* 264. *vide* 3. *E.* 1.6.20.1. *H.* 7.7. *Lam.* 275.

So to take away or conceale an hawke. *Ibid.*

To steale the flesh of tame or wilde fowle dead, is felony. *Dal.* 265. *Stam.* 25. *Lam.* 275.

To pull wool off the sheeps backs, or to kill them for their skinner. *Dal.* 265. *Cro.* 36.b. *Lam.* *ibid.*

A man may commit felony in taking his own goods: as, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, to recover the same by action of Detinue. *Dal.* 266. *Cro.* 37. b. *Stam.* 26.a. *Lam.* 277.5. *H.* 7.18. *Br.* *Coro.* 142. *quare.* I lend



Ilend or deliver my plate or goods to another who melteth my plate, or changeth the fashion of my goods; to take them feloniously is felony in me. *Dal.* 267. *Cro.* 37. a. *Lam.* 237.

If a man pursue or take a felon that hath stolen his goods; taketh them and suffereth the thiefe to escape, he is no accessory; for he may agree *civiliter et criminaliter in initio*. *Dal.* 288. *Lam.* 290. *Terms of Law.* 184. *Cro.* 37. a. 45. b. 42. b. P. R. 131.

If the party robbed take money, &c. of the thiefe, to the end that he shall not give evidence ag unst him, whereby the thiefe escapeth, he is accessory to felony of his owne goods. *Dal.* 288. *Lam.* 290. *Cro.* *ibid.*

*Quere*, if a man having made complaint to a Iust. of Peace, take his stolen goods againe, and doth not prosecute the matter, whether it make him not accessory, for that he did once *agere criminaliter*, *Dal.* 288.

### *Of what things felony is not committed.*

Things which are reall chattels. *Lam.* 275, 276. *Dal.* 266.

To cut downe any tree or corne, or pull any apples or carry them away. *Dal.* 266. *Lam.* 276. Being cut and gathered for one, and then for another to carry them away, it is felony: or if a stranger cut at one time, and carry away at another time, it is felony. *Dal.* 266. *Cro.* 36. b. *Lam.* 276. 12. *aff.* 32.

Lead upon an house or Church is part of the freehold. *Dal.* 266. *Cro.* 37. a.

Evidence of a mans land, indenture of lease, or other writings in box or out of boxe, cannot be valued. *Dal.* 266. *Lam.* 275.

To take away an infant in ward, is no felony. *Dal.* 266. *Lam.* 276.

Treasure trove or hidden, wrecke of the sea, goods wayved or strayed; for the owner is unknowne. *Lam.* 276. *Dal.* 266. *Br. Co.* 96. But

But felony may be committed by taking *bona ignota*, or *mortui et ignoti*, or *parochianorum*, or of a Church or Chappel, or of a Corporation. *Dal.* 266. *Lam.* 276, 277.

*What persons are chargeable in larcenie.*

A woman covert by her selfe, her husband not knowing thereof, committeth larcenie as principall, if she steale another mans goods; or as accessory if she receiveth the thiefe that stole them, or receiveth the stolen goods into her house, knowing them to be so, or locketh them up, and the husband knowing thereof, the law will impute the fault to him, not to her: but if the husband so soone as he knoweth it, forsake his house and her company, and remaine elsewhere, hee shall not be charged for her offence. *Dal.* 267, 268. *Sta.* 26. *P.R.* 130. *Lam.* 282.

The husband delivereth goods to a stranger, the wife stealeth them from the stranger; it is felony in the wife. *Dal.* 268.

A stranger goeth away with another mans wife, and against her will carryeth away her husbands goods, it is felony in the stranger. 268, 269. *Cro.* 35. b. *P.R.* 130.

A servant stealeth by the compulsion of his master, it is felony in both. *Dal.* 269. *Crom.* 37. a.

*Who are not felons.*

A wife stealeth by the compulsion of her husband, it is no felony in her. *Dal.* 267. *Cro.* 36. b. *Lam.* 282. but to doe murder by her husbands compulsion, is felony in both. *Dal.* *ibid.* *Cro.* 37.

A wife stealeth by commandement of her husband without constraint, *quere.* *Dal.* 267. *Stam.* 26. *P.R.* 130.

The husband and wife together steale goods, it is felony in the husband only. *Dal.* 267. *Sta.* 26. *La.* 282.

A wife stealeth goods delivered to her husband, it is no felony. *Dal.* 268. *Cro.* 37. a. The

The wife stealeth her husbands goods, and deliveth them to strangers, it is felony in neither. *Da.* 268. *Cro.* 35.3. *Stam.* 27. *Lam.* 282. *Abr. d'ass.* fo. 71.

The wife receiveth the husband being a felon, and relieveth him, she is no accessory. *Da.* 287. *Cro.* 42.b. *Stam.* 26. f. *Corone* 383.

An idiot, lunaticke, dumb and deafe person, and an infant are chargeable in larcenie after the same sort as they are chargeable in homicide. *Da.* 269. *Lam.* 282. *Vide* Manslaughter. 35. *H.* 6. 11. *Br.* *Coverture* 80.

### Threatning.

He that shall be threatned to be hurt in his body, to be beaten, wounded, impaired, maimed, killed, may crave and have the Peace, against the other. *Da.* 160. *Lam.* 82.

If a man bee threatned to have his house burned, *quere* if he may have the Peace. *Da.* 160.

To threaten to imprison a man, is no cause of the craving of the Peace; for the wronged may have his action of false imprisonment, or his Writ *de homine replegiando*. *Da.* 160. *Lam.* 82, 83. *Quere*.

To enter peaceably into an house, &c. and put out B, and presently threaten and say to B, that if he doe come thither againe to enter, hee will kill him; this seemeth a forcible entry: and if B, come againe to make his entry, then if the other shall threaten to kill him if he entreth, it is a forcible detainer. *Da.* 198. *Cro.* 70.b.

### Tile-making.

One Just. of P. may enquire, heare, and determine by his discretion, as well by examination of the offender, as otherwise, the offence committed in tile-making, and asseſſe the fine therein limited, and may appoint men skilfull to be searchers, *Quere* taken whether one may doe it alone. *Lam.* 193, 194. *Da.* 140. *17. E.* 4. 4. *Crom.* 130. Earth

Earth for tile is to be digged before the first of November, and to bee turned and stirred before the first of February following, and to bee tryed from stones, veynes, and chalke, and not to be wrought before March following, or lose double the value to the buyer. 17. E. 4. 4. *Lam.* 468.

Plain tile put to sale, is to be 10 inches and an halfe long, 6 inches and a quarter broad, 3 quarters of an inch thicke, or lose 5 shillings a hundred. 17. E. 4. 4. *Lam.* 468.

Roose tile must be 13 inches long, halfe inch and halfe quarter of an inch thicke, conveniently deep, or lose 6 shill. 8 pence an hundred. *Ibid.*

Gutter tile must be 10 inches and a halfe long of convenient breadth, depth and thickeesse, or lose two shillings an hundred. *Ibid.*

Searchers of tile, for every default in searching, lose 10 shill. *Ibid.*

### Tipling.

The Inne-keeper, Victualler, or Alehouse-keeper, that suffereth any to continue tipling in his house, shall forfeit 10 shill. 1. *Jac.* 9. 7. *Jac.* 10. 1. *Car.* 4. *Lam.* 192.

Any continuing tipling in an Inne, Victualling-house, or Alehouse, shall forfeit 3 shill. 4. pence to the poore, or not being able to pay the same, shall sit in the stocks 4 houres. 1. *Jac.* 9. 7. *Jac.* 10. 21. *Jac.* 10. *Lam.* 193. *vide* Alehouses. 4. *Jac.* 6. 5.

### Tithes.

Two Iustices of Peace, one being of the *Quorum*, upon complaint by any competent Iudge of tithes, for any misdemeanour of the defendant in a suit of tithes, may cause him to be attached and committed toward, till he finde surety by recognisance to obey the sentence and processe of the Iudge. 27. *H.* 8. 20. 27. *El.* 11. *Dal.* 139. *Lam.* 357. Upon

Upon complaint in writing by an Ecclesiasticall Iudge that hath given definitive sentence in case of tithes against one wilfully refusing to pay the tithes or summe of money adjudged, two such Iustices of Peace may cause the party to be attached and imprisoned, till he finde surety to performe the sentence. 32. H.8.7. *Dal.* 140. *Cro.* 197. a. *Lam.* 357.

## Toll.

Miller taking Toll by heape measure, is to be fined. 31. *Ed.* 1. *de piscoribus.* *Lam.* 461.

Millertaking excessive Toll, (viz.) more than the twentieth or twenty fourth part of the Corne according to the force of the water, or by a Toll-dish not agreeing with the Kings measure, or otherwise than by strike, shall be grievously amerced. 51. H.3. *Cro.* 92. 2.

A Miller shall have Toll of a bushell of hard Corne 3 wine pinter, and of a bushell of Malt but one pint, if the Corne be brought to the Mill; for that a Mill will grinde three bushels of Malt as soon as one bushell of hard Corne. *Cro.* 92. 2. *Quere*, for 51. H. 3. doth not expresse so much. *Vide Dal.* 147.

Toll-gatherer for himselfe taking above a penny for one contract or entring the parties names, and that in the same place onely where the market or faire is, and between 10 of the clocke in the morning and Sunne setting, loseth 10 shill. and is to answer the party grieved. 2. & 3. *P. & M.* 4. *Lam.* 471, 472.

Toll-taker not knowing the seller of an horse, mare, &c. the seller may bring one credible witness that will testifie he knoweth the sellers name, myserie & dwelling-place, and there to enter them with the true price of the horse, or loseth 5 l. 3 s. 1. *El.* 12. *Cro.* 19. 2. *L.* 472.

Any giving testimony to the toll-taker, unlesse hee doe truly know the same, loseth five pound. *Ibid.*

Toll-

Toll-taker refusing to give to the buyer or taker of such an horse, &c. a true note in writing of his entry, the party paying 2 pence for the same, loseth *5. l. Ibid.*

## Transportation.

Every man may transport corne, it being at the prices following, except it be forbidden by proclamation. *1. Jac. 25. 21. Jac. 28. 3. Caro. 4.*

Wheat	} a quarter	26 shill.
Rye and		
Pease -		15 shill.
Barley and		
Oats	} a quarter	13 shill.

Every subject borne within the Realme, when the prices of corne at the times, places, and havens where and where the said corne shall be brought, shipped or laden, exceed not the rates following, may carry and transport of his owne, and buy to sell againe in markets, or out of markets, and to keep, or sell, or carry, or transport any of the said corne from the places where they shall be of such prices, unto any parts beyond the seas in amiry with his Majesty, in English vessels, or carry or sell in English vessels, or carry or sell in other places within the realm, except where such transportation shall bee forbidden by the Kings Proclamation, *3. Car. 4.*

Wheat	} a quarter	22 shill.
Rye,		
Pease and		20 shill.
Beans		
Barley	} a quarter	16 shill.

Every man may transport any beare, when the price of a quarter of Malt exceedeth not 16 shillings.

## Traverse.

Traverse is the denying of the chiefe matter in an en-ditement. *La. 540.*

Traverse

Traverse upon a forcible entry or detainer found upon presentment, *quare* before whom the traverse is to be made or rendred. *Lam.* 158.

Notwithstanding offer of traverse upon enquiry of a force, the Iustice of Peace must make the restitution by the statute of 8. H. 6. or else deliver or certifie the presentment in the Kings Bench. *Lam.* 158. *Dal.* 216.

Traverse lyeth where one Iustice of P. alone will take upon him to record a Riot that hee seeth, and the party shall not be concluded thereby. *Lam.* 182.

Traverse of an enditement of felony or treason is not usuall. *Lam.* 541.

Traverse of an enditement may be before the Iust. of P. *La.* 542. If the Court where the presentment is, cannot award processe thereof, it cannot traverse the presentment, as a leet of bloodshed. *Lam.* 542.

The Court may award processe *ad respondendum* upon an enditement, and may take a traverse of it. *Lam.* 543.

Presentment of bloodshed found in the Sheriffs turne, and sent to the Iustice of Peace, cannot be traversed before them. *Lam.* 542. 8. E. 4. 5.

One of the enquests presents himselfe, it is not traversable. *Lam.* 543.

### Travelling beyond the Seas.

Officer of Ports, or owner of a Vessell, suffering any woman or childe under 21 yeares of age, except Saylers shipboyes, Apprentices or Factors of Merchants in their trades, to goe, or carrying any of them beyond sea without license of the King or sixe of the Privy Councell under their hands, such Officer of the Ports forfeiteth his Office and all his goods, and the master of the vessell his vessell and imprisonment without bayle for 12 moneths, and loseth also all his goods. 3. Jac. 4.

Any subject going beyond the Seas to serve any for-  
raine

raime State, not taking the oath of allegiance before the Controller or Customor of the Port, or either of their depury or deputies before his going, shall be a felon: the oath by them to be registred and certified into the Exchequer once every yeare, or lose 5 pound for every oath not certified. 3. *Jac. 4.*

Any Gentleman, or of an higher degree, or Capitaine, or other officer in the army before his going beyond sea to serve any forraign Prince or State, must be bound by the Controller or the Customor of the Port, with two sureties allowed by the Officer, unto the King in 20 pound, with condition not to bee reconciled to the Pope, nor to practise any thing against the King, but knowing any thing to reveale it: the same bond to be by them registred and certified into the Exchequer once every yeare, or lose 5 pound for every default. 3. *Jac. 4.*

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond sea without license of the King or six of the Privy Council, (whereof the principall Secretary to be one) under their hands and seals, shall take no benefit by descent or otherwise of any lands, leases, goods or chattels, untill he or they being 18 yeares old or above, take the oath of Allegiance before one Iustice of Peace of the County where the Parents dwell or dwell: and in the meantime the next of kinne, being no Popish Recusant, to enjoy them till hee shall conforme to take the said oath of Allegiance, and receive the Sacrament of the Lords Supper, and then to accompt to him for the meane profits, and in reasonable time to make payment thereof. And the senders lose 100 pound, one third part to the King, another to the suitor, another to the poore. 3. *Jac. 5.*

*Vide* Transportation.

Traveller.



## Traveller.

Innekeeper or Alehouse-keeper refusing to lodge a traveller, Justice of Peace, or Constable may compell him. *Quere how*, viz. to present the offence at the Assises or Sessions. *Dal.* 28. *Br. Action sur le Ca.* 9. 76.

Sir James Lee delivered that the Innkeeper or Alehouse-keeper may for the same be endited, fined, and imprisoned, or the party grieved might have his action. *Dalt.* 28. *Ed.* 1626.

## Treason.

Treason is a grievous offence done or committed against the King in his person, the Queene his wife, his Children, Realme, or authority. *Dalt.* 223.

As,

To compass the death of the King, Queene his wife, or of their eldest sonne and heire; or to intend any of their deaths, though it be not effected. *Dalt.* *ibid.* *Essex.* 2. 21, 22.

To deflowre the Kings wife, his eldest daughter being unmarried, or his eldest sonnes wife. *Dalt.* 224.

To levy warre against the King in his Realme. *Dal. ibid.* *Br.* Treason 24.

To conspire to levie warre against the King. *Dalt.* *ibid.*

To conspire with a Governour of another countrey to invade the Realme. *Dal. ibid.*

To kill one that is sent on the Kings message. *Dal.* *ibid.* 22. *ass.* 49.

To encounter in fight, and kill such as be assisting to the King in his warres, or come to helpe the King. *Ibid.*

To aid the Kings enemies in his Realme. *Dalt.* 224.

To counterfeit the Kings great Seale, Signet, Manuall, Privy-signet, or Privy-Seale. *Dal.* 225.

To take an old seale and put it to a new patent, *quare* whether treason or misprision, *Dal.* 225. *Stat.* 3. c. 2. H. 4. 25. *Br.* 3. *contr.* And so of those that without authority set the Kings seale upon any writing, or fraudulently thrust a writing amongst others to seale, and so get it sealed, *Dal.* *ibid.*

To counterfeit the Kings coyne, or any coyne current within the Realme. *Dal.* 225.

To bring in any false money, knowing it to be false. *Dal.* 225. 1. & 2. *Pb. & Mar.* 3.

If he which hath the Kings warrant to coyne, doth coyne money in England, Ireland, or elsewhere lesse in weight than ordinary, or coyneth false metall. *Dal.* 225. *Br. Treason* 19.

All counsellors, procurers, consenters, or aiders of any the forenamed Treasons, are within purview of the statute of 25. *Ed.* 3. for in treason all offenders are principall. 226.

To kill the Kings Chancellour, Treasurer, Justice in Eyre, of Assise, of Oyer and Terminer, being in his place and doing his office, is high treason. *Dal.* 226.

To extoll the authority of the Bishop of Rome within any of the Kings dominions, and the procurers, counsellors, ayders and maintainers thereof, the first offence is *Premunire*, the second treason. 1. *El.* 1. 5. *El.* 1. *Dal.* 227. *Lam.* 411.

So to bring over any bookes that shall maintaine, set forth or defend such authority, and the readers and hearers that shall justifie them. *Dal.* 227.

So deliverers of such bookes to others, with allowance and liking of the same. *Dal.* *ibid.*

So the printers and utterers of such booke be all within the meaning of the statute 5. *El.* 1. *Dal.* *ibid.*

Refusing

Refusing the oath of Supremacy, the first offence is *Premunure*, the second offence treason. 5. *El.* 11. *D.* 201. *Lam.*

To obtaine from Rome, or by any authority from thence any Bull or writing to absolve and reconcile such as will forsake their obedience to the King, and yeeld it to the Pope, or give or take absolution by colour of such Bull, or publish, or put in ure such Bull. 13. *El.* 2. *Dal.* 227.

To absolve, perswade, or withdraw any subject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romish religion for that intent, or move them to promise obedience to any other state, or procure, counsell, or aid them that doe it, is Treason. 23. *El.* 1. 3. *Jac.* 4. *Dal.* 228. *Lam.* 412.

To be wilfully absolved, perswaded, withdrawne, or reconciled to promise such obedience, or to procure, counsell, aid and maintaine the same, except within sixe dayes after their returne into the Realme they submit according to the statute, 3. *Jac.* 4. *Dal.* *ibid.*

For Jesuite, Priest, or other Ecclesiasticall person (made by authority from the Pope) to come into, or remaine in any of the Kings dominions, contrary to the statute. 27. *El.* 2. is Treason.

To compassse the death of an usurper of the Crowne, is Treason, for which the offender may be arraigned in another Kings time. *Dal.* 223. *Br. Treason* 10.

To intend to deprive, depose, or dis-inherite the King, or say hee will be King after the King dyeth. *Dal.* 223. 13. *H.* 8. 12. *D.* of *Buckingham's case.*

To set at large unlawfully any committed for Treason, is Treason by the Common-law. *Dal.* 225.

One imprisoned for felony breaketh prison, where-

by a traitor escapeth; it is Treason in him by the Common-law. *Dal.* 225.

Voluntarily to suffer one to escape that is committed, or onely under arrest for Treason, is Treason by the Common-law. *Dalt.* 226. *Stam.* 32.

Forfeiture in case of Treason is of lands and goods to the King, and at this day by 26.H.8.13. 5.Ed.6. 11. his lands entailed, and his wife her dower, saving in certaine cases. *Dal.* 230.

Judgement and condemnation of a woman in case of Treason is to be drawne on a hurdle to execution, and burned. *Dalt.* *Stam.* 182.

Trespasse, *Vide* Hedgebreakers.

### Tryall.

As well Noblemen as Gentlemen in cases of Felony or Treason, or misprision of Treason, are to bee tryed by their equals. *Lam.* 539.

In Riots, Routs, unlawfull assemblies and forcible entries, Nobility shall bee tryed by common jurors. *Lam.* 539.

All forraigne Pleas tryable by Iury, and pleaded by any indited of Treason, Murder or Felony, shall bee tryed in the county where the party is arraigned, and by Iurours of that county. 22.H.8.14. 32.H.8.3. *Lam.* 552.

Aliens indited of Felony or Murder, must bee tryed *per medietatem lingue.* *Lam.* 554.

Peere of the Realme indited of Treasons upon the statute 3.*Fac.* 4. is to bee tryed by his Peeres. 3.*Fac.* 4.

All Treasons, misprision of Treasons, and concealment of Treason done or committed out of the Realme, shall be enquired and tried within the Realm, 35.H.8.2. *Dal.* 231. *Instit.* 261.b.

Inditement at the Turne to bee certified to the Iustices

Iustices of the Quarter Sessions. *Vide Certificate.*

Sheriff's Turne to bee holden within a moneth after Easter, or within the month after Michaelmas.

*Lam. 504.*

Estreats of the Iustice of Peace of Fines assessed upon presentments in the Turne being inrolled and indented, are to be levied by the Sheriffe to the use of him that was Sheriffe at the time of presentment.

*1. Ed. 6. 2. Lam. 585.*

**V** Agabonds, *vide Rogues.*

*Venire facias.*

Iustice of Peace may award a *Venire facias* against the enditour, to amend a Bill upon the first oath.

*Lam. 507. 8. H. 5. 8. Stamf. 97.*

Iustice of Peace cannot award a *Venire facias* tot *matronas*, to know whether a felon be with childe or no. *Lam. 551.*

### Vessels.

Vessels of ale and beere are to bee made of seasoned wood, with the marke of him that sealed it. *Lam. 460.*

Every Barrell for Beere and every Barrell for ale, and so every lesser vessell by 23. *H. 8. 4.* ought to containe under paine of 3 shillings 4 pence for each default,

Beere	{	Barrell 36.	}	Ale	{	32 16 8	} Gallons.
		Kilderkin 18.					
		Ferkin 9.					

But now by the stat. 1. *Jac. 9.* Ale and Beere shall be sold by retaile by one and the same measure, namely by the Ale-quart. *Dal. 148. Cro. 94. b.*

Wine	{ Tunne	252.	} Gallons. Dalt. 148.
	{ Pipe	126.	
Oyle	{ Hogshead	63.	
	{ Barrell	32. and halfe.	
Hony	{ Rundlet	16. and halfe.	

But *Crompton* 94. b. saith, *Popham* chiefe Iustice saith that the measure of wine and ale should be all one, and that so it was agreed by the Iustices according to the standard of the Exchequer. But note, saith *Crompton* there, that the ale-quart is greater, for that the froth of the ale amounts a little, and wine doth not froth, and therefore there should be a nicke in the top of the wooden kan, where the measure should be, to which nick the ale should come. *Cro.* 94. b. And so Mr *Wallis* Clerke of the Qu. market told him, January 25. 1588.

Butter is to bee of the same content that Sope is. *Dal.* 149.

Herring the Barrell, halfe barrell, firkin, shall bee of the same content that ale is, namely the barrell 42. Gallons, &c. 13. *El.* 11. *Dal.* 149. 11. *H.* 7. 23.

Sope and Butter shall be of the same content with ale, and the empty barrell not to be in weight above 26 pound, and for the other vessels in proportion. 23. *H.* 8. 4. *Dal.* 149. *Lam.* 461. The penalty is 3 shill. 4 pence for each one.

### Victuals and Victuallers.

If Butcher, Fishmonger, Inholder, Tipler, Brewer, Baker, Poulterer, and other seller of victuall doe sell at unreasonable rates, and not for moderate gaine, they lose double value. *Lam.* 454. 23. *E.* 3. 6. & 13. *R.* 2. c. 8.

Brewer selling drinke at higher prices than have beene appointed by the Iustice of Peace, loseth after the rate of 6 shill. a barrell, 23. *H.* 8. *Lam.* 455.

Conspiracy

## Viſtuals and Viſtuallers. 283

Conſpiracy or oath taken, or promiſe made by Butchers, Bakers, Brewers, Poulterers, Cookes, Fruiterers, or any myſterie, or any of them, not to ſell but at prices agreed betweene them, the firſt offence 10 pound, or 20 dayes imprisonment; the ſecond, 20 pound or Pillory; the third, 40 pound or loſe an eare. 2. *Ed.* 6. 15. *Lam.* 455.

To ſell ſwines fleſh mezelled, or fleſh that dyed of the murraine, or other corrupt viſtuall. *Stat. de piſtoribus*, cap. 7. 51. *H.* 3. *Lam.* 455.

Any except viſtuallers in their houſes, buying to ſell againe by retaile Butter or cheeſe, unleſſe it bee in open Faire or Market, loſeth double value. 3. *Ed.* 6. 21. 14. *El.* 11. 27. *El.* 11. *Lam.* 456. 1. *Iac.* c. 25.

Proceſſe upon the ſtatute of 23. *H.* 6. 13. againſt viſtuallers is Attachment, *Capias*, and Exigent.

Brewer, or other ſelling of ale or beere unto any unlicensed Alehouſe-keeper, other than for neceſſary proviſion for his owne houſhold, loſeth after the rate of 6 ſhill. 8 pence a barrell, one moiety to the poore, the other to the informer to bee heard and determined at the Qu. Sessions. 4. *Iac.* 4. *Lam.* 460.

The Officer levying the penalty of 4. *Iac.* 4. and not delivering the moiety to the Churchwarden or Overſeers of the poore, or not diſtributing it within convenient time after receipt, forfeiteth the double to be recovered as the penalty. 4. *Iac.* 4.

Viſtualler is within the ſtatute 1. *Jac.* 9. 4. *Jac.* 5. *Cr.* 4.

*Vide* Transportation, Alehouſes, Tipling.

Alehouſe-keeper without liſenſe upon view of one Juſtice of Peace, confeſſion of the offender, or oath of two witneſſes, loſeth 20 ſhillings to the poore of the pariſh, the penalty to be levied by the Churchwardens or Conſtable by diſtreſſe by warrant of one Juſtice of Peace, and to be apprized and

Sold within three dayes : in default of distresse or non-payment within sixe dayes, the offender to be whipped as the Iustice before whom the conviction was shall appoint ; for the second offence to be sent to the house of Correction for one month; for the third offence to be sent and remaine in the house of Correction till deliverance by order of Sessions. 3. Car. 3.

Constable or other officer not executing the punishment is to be sent to the Gaole till hee cause the offender to be punished, or to pay 40 shill. *Ibid.*

### Undersherife.

*Custos Rotulorum*, or two Iustices of the Peace, one to be Quorum, may give unto Undersheriffes before they exercise their office, the oaths of 1. *Eliz.* of supremacy and 27. *Eliz.* 12. touching their office; so of their deputies and Clerks, or any other meddling with returning of writs or execution of processe into any Court of record. So of Bayliffes, any of them executing their office before such oathes taken, lose 40 pound. 27. *El.* 12. *Lam.* 356. 431, 433.

Undersheriffe or his Clerke or deputy doing any thing against their oath, lose treble damages to the party. *Lam.* 433.

### Unlawfull games.

Every Iustice of Peace may enter into any common place where any playing at dice, tables, cardes, bowles, coits, cayls, tennis, casting the stone, football, or other unlawfull game now invented, and hereafter to be invented shall be suspected to be used, and may arrest the keeper of every such place, and may imprison them untill they find sureties by recognizance no longer to use such house, game, play, alley or place. 33. *H.* 8. 9. *Lam.* 191. *Dal.* 64. *Cr.* 79. 79. 131. 3. 196. a. 197. b. *Lam.* 349. 479.

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## Unlawfull assemblies. 265

Iustice of Peace may arrest and imprison such players till they bee bound no more to play at such game. *Lam.* 192. *Dal.* 464. *Cro.* 172. a. b. *Lamb.* 349. 479.

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, journeyman, servant of artificer, mariner, fisherman, waterman, or servingman, other than of a Nobleman or of him that may dispend 100 pound by the yeare, playing within the precinct of his masters house, shall not play out of Christmasse at any unlawfull game, or in Christmasse out of the house or presence of his master. 33. *H.* 8. 9. 12. *R.* 2. 7. & 10. *Lam.* 479. 6 shill. 8 pence every time. *Quere* if other games besides those prohibited 33. *H.* 8. 9. be unlawfull, as the morrice and other open dances, bearbaitings, common-playes, which seeme to be prohibited by 39. *El.* 4. *Dal.* 63. 1. *Caro.* 1.

All offences against the statute of unlawfull games may be heard and determined at the Quarter Sessions, Assizes, or leet within which they shall happen. *Vide plus Sunday.*

## Unlawfull assemblies.

An unlawfull assembly is of the company of three or more persons disorderly comming together, forcibly to commit an unlawfull act, as to beat a man, or enter upon his possession or the like. *Lam.* 175. *Dal.* 217. *Cro.* 68. b. *P.R.* 25.

First, an unlawfull assembly it is, onely to meete to such a purpose, though they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of such act, whether it bee done or no, is a Rout. Thirdly, to execute such a thing, is a Riot. *Dalb.* 217. *Lam.* 175, 176.

In an unlawfull assembly, Rout or Riot, two things are common, and must concur: first, that three persons at least be gathered together; secondly, that their being together breed some apparent disturbance of the peace, either by speech, shew of armour, turbulent gesture, or actuall and expresse violence to affright peaceable men, or imbolden light and busie bodies by their examples. *Lam.* 176, 177.

There be three degrees of sedicious and riotous assemblies: the first from three to twelve; the second of 12 or more; the third of 40 and upward. *Lam.* 183. 1. *Eliz.* 17. Iustice of Peace may at his discretion assemble subjects to take such, and may take them, and shall be unpunished for hurting, maiming, or killing them if they make resistance. *Lam.* 184.

Iustice of Peace is to take the declaration of any person that (being moved to such an assembly) will within 24 houres after reveale the same. *Lam. ibid.*

*Vide* Forcible Entry, Riots.

### Usury.

Corruptly to contract for more than 8 pound in the hundred, for forbearance for one year, loseth treble value of the monneys, wares, merchandise and other things so lent, bargained, sold, exchanged or shifted. 21. *Jac.* 17.

Scriveners taking above five shillings for procuring 100 pound, and a bond 12 pence, forfeit twenty pound. *Ibid.*

### Utlawry.

Offenders against the Peace for conspiracies, and of Routs in presence of the Iustice or in affray of the people, being indited thereof, if they be not brought in by attachment or distresse (for insufficiency) are  
to

to be out-lawed. 18. *Ed.* 3. 5. *Lam.* 522.

After Utlawry the Iustice of Peace can award no processe, but must certifie the Utlawry into the Kings Bench. *Lam.* 521, 522.

One outlawed of felony before a Iustice of Peace doth appeare and saith hee was in the Kings service beyond sea under such a Captaine, or in prison in such a County; the Iustice cannot write to the Captaine or County. *Marrow Lam.* 552.

## Wages.

**R**ates of wages of servants and labourers are to be made by the Iustice of Peace at Easter Qu. Sessions, and by them to be ingrossed in parchment under their hands and seales, and after it shall bee lawfull for the Sheriffe of the said County to cause proclamation to be made of the severall rates so rated in so many places of their severall authorities, as to them shall seeme convenient, and as if the same had beene set downe by the Lord Chancellour or Keeper, after declaration thereof to the Kings Majesty, and certificate thereof into the Chancery. 1. *Iac.* 6. 5. *Eliz.* 4. 39. *Eliz.* 12.

Any giving wages contrary to the rates appointed and proclaimed, loseth 5 pound. 5. *Eliz.* 4. 1. *Iac.* 6. *Lam.* 474.

Every Iustice of Peace not having lawfull excuse testified by oath of one that is in subsidie 5 pound, &c. that shall not assemble at Easter-Sessions to rate the wages of servants, &c. shall lose 10 pound. 5. *Eliz.* 4. *Lam.* 632.

Any having authority by 5. *El.* 4. to rate wages, may rate the wages of labourers, weavers, spinsters, and of any working by day, weeke, moneth or yeare, or by great. 1. *Iac.* 6.

No

No penalty for not certifying the rates of wages into the Chauncery, according to the statute of 5. *El.* 4. if they be daily proclaimed. 1. *Jac.* 6.

Rates of wages ingrossed in parchment are to be kept by the *Custos rotulorum*; if in a coporation, amongst the records thereof. 1. *Jac.* 6.

Any two Iustices of Peace may imprison without bayle the master for 10 dayes for giving, and the servant, workman or labourer for taking greater wages than are assessed by the Iustices of Peace, and proclamation thereof made in that county. 5. *El.* 4. *Dal.* 80. Every retainer, promise or payment of wages, or other thing whatsoever, contrary to the true meaning of 5. *El.* 4. and every writing and bond for that purpose is utterly void. *Dal.* 80.

Iustice of Peace may have his action of debt against the Sheriffe for his wages at the Sessions. *Cro.* 177. a.

Iustices of Peace shall be paid their wages out of the fines and amerciaments of the same Sessions, and they ought to assess the fines in the Court, and then the Clerke shall indent the estreats betwixt the Iustices and the Sheriffe, and the Iustices shall put their names thereto, to the end the Sheriffe may know to whom to pay wages, and levie the same to pay to the Iustices, whereupon the Sheriffe shall be allowed the same upon his accompt in the exchequer. 14. *R.* 2. 11. *Cro.* 177. *Lam.* 628.

## VVainlings.

Any killing any wainling Calves under two yeares old to sell, lose 6 shillings 8 pence for every offence determinable at the Quarter Sessions. 24. *H.* 8. 9. 1. *Jac.* 25. *Lam.* 453. 607.

## VVait-lying.

Lying in wait to maim or kill any other, is to be fined. *Lam.* 446.

## VVarrants.

The Iustice of Peace his command by word of mouth is in some cases as strong as his precept in writing. *Dal.* 328.

As a Iustice of Peace seeing a Riot may command the Rioters to be arrested, and cause them to finde sureties for their good behaviour. *Dal.* 328. So upon affray, assault, threatening or any other breach of the Peace, he may command the officer being present to arrest such offenders to finde surely for the Peace. *Dal.* 328.

But for causes out of his presence one may not arrest another upon the Iustices command, but by precept in writing. *Dal.* 328. 14.H.7.8,9. *Br. Peace* 7.

A warrant in witing must bee under the Iustices hand and seale, or under his hand at least. *Dal.* 328. *Lam.* 85.88. 14.H.8.16. *per Brudenell.*

A warrant for the Peace or good behaviour must containe the speciall matter. *Dal.* 328.

A warrant for treason, murder or felony, or other capitall offence and such like, need not containe the speciall cause. *Dal.* 329. *Cro.* 148.

A warrant is better if it containe and beare the date at the place where it is made, the yeare and day when it was made. *Dal.* 329. *Cro.* 74.2. 21.H.7.22.

Iustice of Peace being out of the county, granteth his warrant to be served in the county; the officer must carry the party before some Iustice of Peace within the county. *Dal.* 329. *Lam.* 91. *Quere* 13. *E.* 4.8. *Com.* 37.

Iustice

Iustice of Peace may make his warrant to come before himselfe : yet upon a warrant for the Peace the usuall manner is otherwise. *Dal.* 330. *Co.* 5. 59.

In some cases a Iustice of Peace may grant his warrant to attach the offender to be at the next Sessions of the Peace, to answer his said offence. *Dal.* 33. & 48. upon 33. *H.* 8. 1.

Iustices of Peace in divers cases (as the case shall require) may grant their warrant for the parties neglect, or other default : and such warrant may be either to attach him to be at the next Sessions, there to answer, &c. or to bring the offender before the said Iustices, or any other Iustice, &c. who finding cause to binde him, may binde him to the next Sessions to answer the said default. *Vide Dal.* 330. & 326, &c.

Where the statute giveth authority to the Iustice of Peace to cause another to doe a thing, they have power of congruity to grant their warrant to bring such persons before them, that so they may take order therein. *Quere* 330. *Dalt.* 326. *F.N.Br.* 82.

A Iustice of Peace maketh a warrant beyond his authority, it is not disputable by Constable or other inferiour officer, but must be obeyed. *Lam.* 65. *Dalt.* 8. 334. 14. *H.* 8. 16.

But if the Iustice make a warrant to doe a thing out of his jurisdiction, or in a cause wherein hee is not Iudge; if the officer execute the warrant, he is punishable. *Dal.* 334. *Cro.* 147. b. *Dal.* 8. *Lam.* 91, 92. Warrant for the Peace may be directed to any indifferent person by name, though hee bee not officer : yet it is better to a knowne officer. *Lam.* *Dal.* 332. *Cro.* 147.

A sworne and knowne Officer need not to shew his warrant; but the servant of the Iustice must shew it if it be required. *Dalt.* 332. *Lam.* 89. *Cro.* 148. a.

A warrant directed to the Constable, and to a stranger

stranger joyntly and severally, and executed solely by the stranger, is good. *Dal.* 332. *Cro.* 147. b.

Warrant directed to two joyntly to arrest another, may bee executed by one of them. *Dal.* 332. *Lam.* 89.

A warrant being directed by a Iustice of Peace to the Sheriffe, he may by word command any sworne or knowne officer under him without precept in writing. *Dal.* 332. *Lam.* 89.

If a Iustice of Peace his warrant be directed to the Sheriffe, Bailiffe, Constable, Iustices servant, or other to arrest one, such person must serve it himselfe. *Dal.* 332. *Lam.* 89.

He to whom any warrant shall bee directed, must doe it with all secrecy and speed. *Dal.* 332.

A knowne officer must, if hee will not shew his warrant upon arrest, declare the contents of his warrant. *Dal.* 333. *Co.* 6. 54. & 9. 68.

Upon arrest in the Kings name, the party arrested ought to obey, *Dal. ibid.* for if hee have not lawfull warrant, the party grieved may have his action of false imprisonment. *Dal. ibid. Co.* 9. 68.

Another officer arresting a man doth afterwards procure a warrant; this is a wrongfull arrest. *Dal.* 333. *Lam.* 90, 91. *Dyer.* 244.

The officer having a warrant for the Peace, or good abearing, may breake open the doores. *Dal. ibid. Cro.* 170. b.

One is arrested, who upon promise to come again is let goe, and cometh not againe; the officer cannot arrest him by force of his former warrant, except he prosecutes him with fresh suit. *Dal. ibid. L.* 5. *E.* 4. 12. *Br. faux impr.* 18.

An Officer having a lawfull warrant to arrest another, is resisted or assaulted by the party or any other person; the Officer may justifie the beating or hurting

ting such person. *Dal.* 333. *Lam.* 92. 21. *H.* 7. 39.

If any abuse the warrant, as by casting it in the dirt, or treading it under his feet, he shall be endited and fined; for it is the Kings proceffe. *Dal.* 334. *Cro.* 149. a. *Quere*, whether he shall not be bound to his good behaviour, *Dal.* *ibid.*

Before that a Iustice of Peace grant his warrant to arrest one for murder, or felony, it is meet to examine the party that requireth the warrant upon oath, and to binde him to give evidence at the next Goal-delivery. *Dal.* 334.

Warreners, *vide* Forresters.

### Watches.

Any Iustice of Peace may cause night-watches to be kept for the arresting of nightwalkers and persons suspect, be they strangers or others of evill fame. *Dal.* 140. 13. *E.* 1. *Stat. Winton* c. 4.

Watch is to bee kept yearly from Ascension day till Michaelmasse in every towne, from sunne setting to sunne rising. *Dal.* 140. *L.* 440.

All strangers or persons suspected, passing by the watching men, may bee examined by them; and if there be cause of suspicion, they may stay them, and if they will not obey, may levy hue and cry, and may justifie to beat them, and may flock them till morning; and if they finde no cause of suspicion, deliver them; but if they finde cause, may deliver them to the Constable, to carry them before a Iustice of Peace. *Dal.* 140. 292. 5. *H.* 7. 5. a.

Any Iustice of Peace may cause all night-walkers, strangers or other suspected, especially such as sleepe in day, and walke in night, to be arrested, and such as in the night haunt any house suspected of bawdery, or use suspicious company, or commit other outrages or misdemeanours, and cause them to finde sureties for



for their good behaviour, *Dal.* 88. *Lam.* 118, 119.

No man is compelled to watch unless hee bee an inhabitant in the towne. *Dalt.* 141. *edit.* 1626.

Watermen.

Every Iustice of Peace within the shire next adjoining to the river of Thames within his jurisdiction hath power upon complaint by the overseers or rulers of the watermen and wherry-men, or two of them, or by the masters of any such servants, both to examine, heare and determine all offences against the statute, and set at large him that shall be imprisoned by the overseers and rulers, if there be just cause, and also by his discretion to punish those overseers and rulers, if there be just cause, as if they unjustly punish any person. 2. & 3. *Ph. & M.* 16. *Lam.* 203. *Dal.* 141.

The offences against the statute are, *Dal. ibid.*

1. No singleman shall be a waterman. 1. *Iac.* c. 16.
2. One of the two rowing in one boate must bee allowed by eight of the overseers by writing under seale.
3. They shall not hide themselves in time of pressing for the King service.
4. They shall not take for their fare above the price assessed, and set up in tables in Westminster Hall. *Dal.* saith, *quere* whether the Iustice of Peace be to meddle with this.

Wax.

One Iustice of Peace may examine and search by his discretion such as doe sell any candles, or work of waxe above foure pence cleare gaine over the price of the waxe, and punish them by forfeiture of that which is to be sold, and the value of that which is sold, and fine to the King. *Dal.* 141. *Lam.* 196, 469. 11. *H.* 6. 12.

Weapons which be forcible, *vide* Forcible entry.

## Weeres.

Weeres in rivers may be surveyed by one Iustice of Peace, which he may cause to be made of a reasonable widenesse. *Lam.* 189.

Any making weeres within 5 miles of the mouth of any hiven or creek, or by weeres destroying any frise of fish of the sea, loseth 10 pound, one moiety to the King, the other to the informer. 3. *Jac. c. 12. Lam.* 190, 203. *Dal.* 56. explaineth that stat. of 3. *Jac. c. 12.*

## Weights and Measures.

Faults of the officers of Cities and Boroughs in not viwing and examining weights and measures twice a yeare, to be heard and determined by examination and enquiry of two Iustices of Peace, one being of the Quorum, and by them to be fined and amerced; and so of faults of buyers and sellers by other weights and measures than they ought to doe. 11. *H. 7. 4. 12. Hen. 7. 5. Lam.* 356. *Dal.* 142.

Two Iustices of the Peace (one of the Quorum) may breake and burne such measures as they finde defective, and fine the offender by their discretion, and make processe against them as in trespassse. 12. *H. 7. 5. Lam.* 356. *Dal.* 142. 11. *H. 7. 6. 4.*

Mayors of townes taking above a penny for sealing a bushell or other measure, or for weights above a penny for a pound and a halfe, a halfe penny for alone pound, a farthing for a lesse weight, lose 40. s. 11. *H. 7. 4. Lam.* 437. *Dal.* 151. 7. *H. 7. 6. 3.*

Buying and selling by unlawfull weights or measures, or in any City or market, with any weights or measures that are not lawfully marked or signed, hee loseth for the first offence 6 shillings eight pence, for the second offence 13 shillings 4 pence, and for the third 20 shillings and Pillory. 11. *H. 7. 4. Lam.* 460.

To

To buy corne by heaped measure, except on ship-board, or to use double measure, the one to buy, the other to sell with, the first offence is sixe shill. eight pence, the second 13 shillings 4 pence, the third 20 shill. and Pillory. 11.H.7.4. Lam.460. 15.R.2.c.4. Stat. de Pistoribus t.8.

Those of the towne where the Kings Standard is appointed to remaine, not having common weights and measures signed, or not selling by the same to all that have required the same, are to be fined and amerced 11.H.7.4. Lam.416. Dal.151. vide plus Vessels.

## Witchcraft.

Invocation, Conjuratiō, confutation, intertainment, employment, feeding or rewarding any dumbe spirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft or Charmes, or using any manner Witchcraft, whereby any person shall bee killed, or any part of them wasted or lamed, and also the accessories, is felony without Clergy. 1.Iac.12. Lam.415.

By Witchcraft or Charmes to finde out hidden treasures, to tell where lost goods shall bee found, to provoke unlawfull love, to destroy or hurt any mans body, or to attempt either of them two, the first offence is one yeares imprisonment without bail, and to stand in the Pillory six houres every quarter of the same yeare, and confesse his offence, the second is felony without Clergy. 1.Iac.12. Lam.415.

Tryall of Noblemen upon the Stat. of 2. Jac.13. of Witchcraft, is to be by his Peeres. Crom.59. b. Attainder upon the Stat. 1. Jac.12. of Witchcraft, neither losse of Dowry, nor corruption of Blood. 1.Iac.12. Crom. ibid.

## VVines.

Wines brought in strange bottomes from *France* into any part of *England*, except the Ile of *Man*, and *Wales*, forfeit the Wines. 27. *El.* 12. *Lam.* 457.

Any licensed to retaile wine, selling above the prices limited by Proclamation, lose 3 s. 4. d. for every Gallon. 27. *El.* 11. *Lam.* 458. 5. *El.* c. 5.

Any under a Barons Sonne, or 100 markes a yeare, or 1000 markes in goods keeping to spend in his house any vessels of *Gascoigne* wine, *French* or *Rachel* wine, above 10 gallons, loseth 10 pounds. 7. *E.* 6. s. 5.

## VVoad.

Woad brought from *France* into any part of *England*, except the Ile of *Man* and *Wales* in a strange bottom, forfeiteth the woad. 27. *El.* 11. *Lam.* 457, 458.

## VWood.

Upon complaint of the Lord, and disagreement of the Lord and his commoners, the fourth part of the Lords wood may be set forth by two Iustices, appointed by the greatest part of the Iustices at their Sessions, and not being of kindred or alliance to the Lord, 35 *H.* 8. 17. 13. *El.* 25. *Lam.* 359.

Iust. in Qu. Sessions may call before them the owner of the wood, and 12 of the Commoners to set out the fourth part. *Lam.* 609.

Ingrosser or Register of Barke, forfeiteth the Bark. 1. *Iac.* 22. *Lam.* 452.

Any selling of Barke meet to be barked, before April, or after June, except for necessary building, or repairing of houses, ships, mills, lose the oake, or double value. 1. *Iac.* 22.

Purveyors taking Timber for the use of the Kings ships

ships or houses, the owner may retaine all the Barks lop and top, and the Purveyor taking them, loseth for every tree 40 shillings to the party grieved. 1. *Iac.* 22. *Lam.* 438.

VVooll and VVooll-seller.

Buyer of wooll of any other than the owner of the sheep, lose the value. 14. *R.* 2. 4. *Lam.* 452.

VVoollen-yarne.

Buyer of woollen-yarne, and not making it into cloth, loseth the value thereof. 8. *H.* 6. 5. *Lam.* 452.

Any sorter, carder, kember, spinster or weaver, receiving wooll and yarne of any clothier or maker of stufte, and embezelling, selling, or detaining the same, and the Receiver and Buyer knowing thereof, upon conviction, by confession or oath of one witness before two Just. of Peace, is to make such recompence to the party, as the Just. shall appoint: and the offender being unable and refusing to doe it, is to bee whipt or stocked. 7. *Jac.* 7.

VWomen.

Women arraigned for felony, may onely for one time have the benefit of their belly, *Lam.* 563.

Iust. of Peace cannot award a *Venire facias tot matronas*, to know whether a woman felon be with child. *Lam.* 551. *Antia* 275.

Taking away a woman against her will that hath land, &c. or is heire apparent, not claiming her as ward, and after marry or defloure her, is felony without Clergy. So of the procurers, abettors and receivers knowing thereof. 3. *H.* 7. 2. *Lam.* 421.

A woman being delivered of a Bastard-child, and borne alive, that endeavoureth privately by drowning, secret burning, or other way by her self, or procuring of

other, to con-ceale the death thereof, as that it may not come to light whether it were borne alive or dead, shall suffer as in murder, except she can prove by one witnesse that the childe was borne dead. 21. *Iac. 27.*

Women convicted of felonious taking above 12. d. and under 10. s. being not Burglary or Robbery in or neare any high way, nor taking of money, goods, or chattels from the person of any, privily or as necessary to any such offence, wherein a man may have his Clergy, shall for the first offence be burned in the hand and further imprisoned, whipped, and stocked, or sent to the house of Correction (not above a year) as the Justice before whom the conviction is, shall thinke meet. 21. *Iac. 6. Dal. 269.*

Wife and her husband are bound to appeare at the Sessions, and in the meane time to keepe the peace: The husband onely appearing, the Recognizance is not forfeited. *Dal. 275. Quere taken. Cro. 144. b.*

F I N I S.



